



THOMAS WAYNE NORRIS



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TOMAS S. VANASEK

THE
VOLCANO DIGGINGS;

A

TALE OF CALIFORNIA LAW.

BY A MEMBER OF THE BAR.

Leonard Kip.

Dick. The first thing we do, let's kill all the lawyers.

Cade. Nay, that I mean to do. Is not this a lamentable thing, that of the skin of an innocent lamb should be made parchment? that parchment, being scribbled o'er, should undo a man? Some say, the bee stings; but I say, 't is the bee's wax; for I did put seal once to a thing, and I was never mine own man since.—KING HENRY VI.

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J. S. REDFIELD, CLINTON HALL,
CORNER OF NASSAU AND BEEKMAN STREETS.

1851.

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P R E F A C E .

A FEW words by way of introduction, reader! —

The object of this tale has been to illustrate the blind and foolish ignorance of those who are for ever carping at the systematic workings of our judicial and legal institutions; and also to show the danger as well as the absurdity of despising forms, and trusting to extempore suggestions for a true demonstration of legal principles.

The early lynch-law trials in California furnish savory food for reflection upon this topic; and, as the author has spent much time in that country, and has so travelled through it as to be well acquainted with its different phases of life, he has concluded that he could not choose a more expedient region for the development of his plot.

Many of the following descriptions of scenes and scenery have been drawn from the life. Those among our countrymen who have ever visited the Volcano

diggings, will, it is hoped, recognise the picture—though, of course, understanding that the plot is entirely fictitious, and in no way to be identified with that locality more than with any other. Several of the characters are also drawn from actual observation or acquaintance; among which, Burschenwolt, Kentucky, and Pickle Jack, will be readily recalled by such of the author's friends as worked with him at the pickaxe and rocker.

—And now, reader, to the story!

THE
VOLCANO DIGGINGS.

You, dear C——, have to-day been sitting in your little three-pair-back office, conning over whole pages of law, which, in your heart, you sometimes doubt ever having an opportunity to make use of—or, as you hear some one ascending your stairs, who may be a client, but who turns out to be only an apple-man or the tax-gatherer, hurriedly slipping into your desk some novel which mental fatigue has tempted you to take up—or gazing vacantly upon your burnished sign, as you wonder why that good-natured old-bachelor gentleman, who, in romances, is always getting his property into embarrassing situations just in the very nick of time to help along worthy young lawyers, does not sometimes favor you with a call,—forgetting that there are few Brothers Cheeryble in real life. Start not, nor begin to ask by what magnetic influence or gift of second-sight I have detected you in your avocations; for, with you, one day is as another, and it requires but little shrewd-

ness to imagine that the pursuits which employed you a year ago are still the objects of your thoughts and actions.

I, on the contrary, fresh from the restraints and tossings of a long sea-voyage, have been riding over the plains of this Land of Gold—this California—feeling that buoyancy of soul which a freedom from the cares and proprieties of civilization so wonderfully encourages; stifling every doubt of future success, whenever any such doubts have dared arise; and confusing poor Memnon with details of my many plans, to be carried out when our already brightening dawn of prosperity shall have ripened into a glorious noon. You remember Memnon—that faithful negro, born in the family, and nicknamed after the Egyptian statue, by reason of a similar habit of singing at sunrise. He has ridden at my side, as the last relic of a fallen house; and, though I can not make him enter into all my feelings with the same enthusiasm, and am sometimes inclined to blush for the excessive nonchalance with which he hears the most glowing prospects unfolded before him, yet, upon the whole, for a long travel in a strange land, he makes a capital good companion, despite his tawny skin and frizzled poll.

You are now asleep, and are probably dreaming of future greatness. Perhaps you think that you are addressing an enlightened and intelligent jury—such a body having at last been found—and have succeeded,

in despite of their enlightenment and intelligence, in convincing them that tweedledum means tweedledee, to the delight of all spectators and the admiration of the bench. Or perhaps you imagine that the man who never tells his story over twice has given you a cause; or, better yet, that the man who never challenges any item in your bill of costs is your client. These may be vain dreams, C——, but they are oftentimes better than the waking realities of morning.

I am sitting upon the ground, in one of those little caravansaries which sprinkle the road to the mines, at half-day distances. Before me is an old Mexican saddle, upon one of the broad flaps of which I am writing this letter; for the table, upon which I fondly relied but an hour ago, has been taken up by sundry tired travellers, as the nearest substitute for a cot: for this is a crowded night, and upon all sides slumberers lie thickly around me. On the bar and behind the bar, across the doorway and behind the barrels, they lie thickly stowed away; while, from the rafters above them, a sick man swings in a bamboo hammock, and dolefully groans at each puff of air which stirs his pendant couch.

Outside there are others, who can not find room in the tent, or whose inclination prompts them to sleep in the open air. Near one of the trees which surround the tent a party of rough-bearded Germans have built up a large fire, and have stretched them-

selves in their blankets, with their feet to the flames, in true bivouac style. Their guns are stacked close at hand ; and one or two, who have mules, have tethered the animals in very close proximity. At first, the whole party was very noisy, and talked long and fast in harsh gutturals ; but, as the fire has gone gradually down, they have subsided into silence, and are now doubtless fast asleep, with the exception of one who now and then rises to throw an additional log on the dying embers. He too will ere long drop off, if I can judge by the lazy air with which he tossed the last stick upon the flames.

A little farther off, half a dozen Mexicans have chosen their resting-place. Their fire burns brighter than that of the other party, for two of them are yet sitting up and playing their indefatigable "monté" by the flickering light. The others are curled up in their ponchoes like so many dogs, and probably with just about as much solicitude for the morrow. A merry life the vagabonds seem to lead ; for, though often hungry and always dirty, yet, in their worst afflictions, a greasy pack of cards will cause them to forget all their trials, and they will be as happy as though rolling in every luxury.

Though almost every one is asleep, yet silence is not prevalent. Not to speak of the suppressed murmurings of the sick man, or the low, whispered conversation of the gaming Mexicans, occasionally

breaking out into a discordant laugh, or the tread of the tethered mules as they now and then rise up to crop the scanty grass, the mingled yells of wild-cats, wolves, and coyotes, come across the plain at irregular intervals, making night hideous. Now and then, as I peep through the folds of the half-closed door, I see one or two of the latter striding to and fro behind the fire, as though attracted by the sight or smell of the slaughtered ox, hanging from a limb of a tree—until a chance movement of some troubled sleeper frightens them away, when they will scamper off, and at a safe distance make the plains resound with their yells of disappointment. Ah, C——, a life in the wilds for me, where the soul can rove free from all the trammels of civilization, and man feels his native, inherent nobility!

“Fudge!” I hear you say. “These are mere dis-tempered fancies—mere boyish attempts to give a happy aspect to a foolish expedition.”

Granted, in part, dear C——. And why should I not encourage such fancies? I have my wretched seasons of heart-burning anxiety, and is it not proper that I should encourage myself with cheerful thoughts? Trust me, that though my writing may show the working of a reckless feeling, yet I am not entirely devoid of carefulness and consideration. Much that I tell you in regard to my impulses is assumed to cover anxious speculations; and why should I not assume gayety, if

properly tempered with thoughtful concern? Would it be better, think you, to suffer my mind to be chilled with gloomy forebodings and dreadful looking forward to direful contingencies, which, though possible, may never happen?

But, as to the foolishness of my expedition, I can not agree with you. Had I been placed where influence and position would forward my interests, where even a little present success might foreshadow future triumph, I could cheerfully have remained at your side, and toiled for the prize with a contented heart. But when dropped in a strange city—placed almost unknown among hundreds who are struggling in the same occupation—seeing one after another of later growth climbing above me, because family or friends stretch forth a fostering hand, while I am left behind for want of the same—ah! I like not the picture. You may tell of instance after instance where men, after undeviating application, have risen to fame and power; but, while I applaud their enterprise, I do not think that it is a necessary duty to follow their example. Better to make an early resort to these wilds—where, if danger and death threaten, success on the other hand will be more speedy; and where, though hardships may intervene, the joyous feelings of youth may sometimes find an outlet. Better all this than to sit year after year torpidly poring over musty books in dusty rooms, till every sense of springlike elasticity is

stagnated, and the long-looked-for wealth and honors find but wintry old age to rejoice in them.

And now, dear C——, a few words and messages to other absent acquaintances, after which I will continue my journal without further interruption—day by day, as I find time, noting down whatever I think may interest you ; while, at the first suitable opportunity, I will send you the collected MS., whether it may tell of good or evil to your seemingly-erring friend.

* * * * *

The watchfire now burns low, for the guardian Mexicans have dropped asleep, and the last embers are settling to ashes. The wolves and coyotes have ceased their howling, thanks to a stalwart Texan, who, a few minutes ago, fired his rifle in the direction of the yelling pack. Around me the forms of my fellow-travellers are plunged into a yet deeper sleep, if possible, and even the sick man has fallen into a few hours of troubled rest. So I close my portfolio ; and, with a blessing upon those I have left behind, prepare to follow the general example. Good-night !

II

THE bright glare of the sun, shining in at the open end of the tent, the canvass flaps of which had been thrown back upon the roof—the sudden loud laughter of the Germans, as they greeted some capital joke—and the rather hasty demand that I should take my feet off somebody's blanket, as he was about to pack up—proved sufficient incentives to awaken me at an early hour. Upon raising myself upon my elbow, I saw that, in place of the crowd which had slept about me, the place was nearly deserted. The man who had so summarily requested his blanket, had gone off with it to his mule ; and, with the exception of the landlord, mixing up a morning drink for himself, an attaché laying the knives and forks for breakfast, and the sick man in the hammock, I was alone.

I jumped up and looked out. The Germans had already put the oxen to their lumbering old wagon, and were now loading up their firearms and replenishing their canteens for the day's march. The Mexicans had apparently stolen off some time before ; for, of all the crowd which had bivouacked the past night beneath the trees, but two remained—one of whom was drunk and the other wretchedly lazy. Several of the poorer class of travellers of all nations were examining their scanty stock of provisions, previous to taking their departure ; while those who were better to do in the

world, or who were but too little experienced in the hardships of gold-digging to value its acquisition aright, were standing beside their saddled mules, and gayly retailing merry jokes to beguile the time until the more elaborate banquet of the establishment might be ready. And from the little kitchen-tent came the uproarious choruses of Memnon, who, true to his name, had commenced his songs at sunrise, and had ever since continued them; while, with a laudable desire to combine the useful with the ornamental, as well as to make new friends, he had been giving valuable assistance to the negro-cook, and thus had materially forwarded the preparations for breakfast.

“Memnon!”

“Sar?”

“All ready?”

“Horses all packed, sar. Just wait for de blankets.”

“Well, then, put them on; and now for breakfast.”

I turned into the tent, and seated myself at the table, while Memnon breakfasted in the kitchen, by invitation of the cook; and then, after a few minutes of industrious application, we sallied forth and prepared to resume our journey. I mounted my mule, a high-spirited but vicious animal, while Memnon took charge of two raw-boned horses which I had purchased at a bargain. One of them bore our small stock of implements and provisions, and upon the other Memnon himself sat, whistling those perpetual sorrows of the forsaken Su-

sanna—who, it seemed to me, had wept for so long a period, that it was about time she got married again. Altogether, we must strikingly have reminded passers-by of Don Quixote's first expedition after adventure, with this difference, that here the knight had the ass and his esquire the horse.

For a long time we slowly travelled on up the road, which pursued its level way for miles without a bend. The track was dusty, and the grass beside it parched and yellow. No underbrush greeted our vision, but gnarled oaks of beautiful proportions dotted the plain as far as the eye could reach. Occasionally a hare or flock of quails would start up beside us, and timidly dart away; whereat Memnon would, for the instant, suspend his whistling, and grin delight—sometimes firing the revolver with which I had furnished him, but never producing an effective shot. Once or twice we could perceive herds of wild-cattle at some little distance from the road, looking upon us with lowered horns and gleaming eyes, as though desiring us to furnish some provocation which might serve as an excuse for our destruction; whereat Memnon would draw up nervously at my side, under pretence of asking some question or other.

Now and then we passed some straggling parties on foot, sauntering along good-naturedly, and equipped with muskets and canteens; or perhaps a rollicksome sailor, with red sash and bloody spurs, would dash

past us at a rate which boded but little length of days to his sweating steed ; or a train of oxen would meet us, slowly dragging some white-topped wagon, which, having gone to the mines loaded down with goods, would now be returning for another cargo, and often with some poor, emaciated miner, weary and heart-sick, lying upon the bottom, and only returning to the settlements to die.

You know, dear C——, that I am naturally careless and indifferent, and perhaps too much inclined to trust to stumbling upon good luck, rather than to make efforts to encounter it. But you will hardly credit that I was wandering ahead, light and free hearted, without in the least knowing whither I was going. That I was on the road to some of the mines I was well assured, but which particular districts terminated the way was a matter about which I knew little and cared less. For, by what I had gleaned below from chance travellers, I had been led to consider one mine about as good as another ; and I had partly determined to stop at the first which lay in my way, and there commence my operations. The only object of solicitude I entertained was, to place myself in some favorable position where my legal abilities might be called to good account ; for, though those were certainly not sufficient to elevate me to any very exalted rank in an eastern city, yet I judged that, among the crowd of ignorant and lawless men who swarmed the mines, even moderate

legal acquirements might serve as a stepping-stone to fortune.

Such, then, had been the principle upon which I had carelessly jogged along : but now, as the road became more broken, and I saw the distant mountains turning from blue to brown, and noticed from time to time the various trails which led from the main road, I became conscious that it was time to enter upon some determination in regard to my destination, and that I should therefore lose no time in making such inquiries as might lead to a selection of the most proper and available locality. Apparently such thoughts began to confuse the mind of Memnon ; for, after eying me steadily for some minutes, he dropped the reins on the neck of his steed, ceased whistling in the midst of a deplorably doleful strain, and inquired—

“ Where we go now, sar ? ”

“ To the mines, of course,” I answered, endeavoring to counterfeit an ease of manner which might give the impression that everything had already been satisfactorily determined upon.

“ Yes, yes ; but what mine, sar ? ” he responded, not at all deceived by my ill-disguised assumption. “ Good many mines here ! See man from Maukelumne, hab six-ounce lump ! ”

“ Ah ? well, then, to the Maukelumne we— ”

“ See ’noder man from Calaveras hab ten-ounce lump ! ”

‘To be sure! I always thought that the Calaveras—’

“Man from Tuolumne hab no lumps, but dust—good many ounces!”

“Indeed? Well, after all, I don’t know but what the Tu—”

“See ’noder man from the Tuolumne hab neber a cent!”

“Well, well,” I said, rather coming down in my tone, as I heard this last bit of mining experience; “we’ll find out where to go. And we’ll ask that man under the tree: he may give us some information.”

Memnon dropped behind, and fell to whistling again, and we rode forward to the person I had alluded to—a rough-looking Dutchman, resting himself beneath a spreading oak, with an old musket, which might possibly have served in the Thirty Years’ War, leaning upon his knee. But all in vain did we attempt to get information out of him. I tried him in English, then with a smattering of French, and then with a few barbarously-delivered sentences of Spanish; but the only thing the fellow knew was his native Holland tongue, and that was entirely beyond my depth. As some amends for my disappointment, however, he held out a flask of schnaps, the first taste of which took the skin off my mouth; and, sputtering out a hasty farewell, I left him. As I looked back, after having ridden a quarter of a mile, he was still sitting in the same posi-

tion, and gazing after us in a listless mood, which did not betoken a mind anxious to be at work.

It was getting to be noon, when, for the purpose of resting both ourselves and our quadrupeds, I proposed a halt; and we threw ourselves upon the parched grass, leaving the animals to wander unrestrained by anything except the long lariats, which, in Spanish style, we usually carried coiled up in front of the saddles, and which we now made fast to the bare roots of a neighboring tree. The place at which we halted was upon the edge of one of those deep gullies which so much abound in the low lands of California, and which, though dry in summer, are generally roaring torrents in winter. The trees were now more thickly studding the ground about us; and, while the oaks continued to assert their place, a straggling pine here and there betokened our nearer approach to the mountains. A slight growth of underbrush also appeared, consisting of dwarf-oak and certain red-berried shrubs, said to be considered a very great delicacy by the grizzly bears, which occasionally descend to seek their food in the valleys. Here, then, we stretched ourselves out, at the foot of one of the trees, and, lighting our pipes, mused away several minutes—in which I was rapidly forgetting all about the mines, as my imagination wandered back to the East and the friends I had left behind, when suddenly Memnon recalled my attention by pointing to the road over which we had just passed.

Two men, each mounted upon a handsome mule, were slowly riding along in our direction. Although I never expected to have the slightest interest in them, yet, as the study of character has ever been a favorite pastime with me, and at that moment its pursuit was an exercise perfectly in accordance with my then indolent frame of mind, I propped myself upon my elbow, and commenced watching them closely, and endeavoring, from their manners and features, to assure myself of their several natures and occupations. Just then, however, I noticed that they stopped opposite a little clump of underbrush, and seemed to be looking down with considerable interest.

Not certain but what they had stumbled upon a goldmine of great richness and value—for I had but very limited conceptions of the usual localities of the diggings—I mounted my mule, and dashed up to them; but found that they had only discovered a sailor-friend of theirs, who had been so overtaken with intoxication as to be forced to seek repose for the time in the privacy of the underbrush, to the detriment of his tarpaulin-hat and short-cut coat, one of which was very much crushed and the other very much soiled. I rather wondered that I had not previously seen him myself as I passed along, since he had evidently been there some time.

“Pickle Jack drunk again!” said one of the two strangers, looking at me.

I supposed that “Pickle Jack” had been so named

in allusion to some real or fancied fondness for the condiment in question ; but seeing that the speaker seemed to be expecting an answer, I dismissed all such speculations from my mind, and replied that I was sorry Pickle Jack was addicted to such bad practices, as, if persevered in, they would inevitably impair his usefulness in society, and finally bring him to destruction.

“ You may well say that, stranger,” said the person who had addressed me. “ But come—if you are going our way, join us ; and, as for Pickle Jack, you may depend upon it he’ll come along in a day or two.”

I accepted the offer, and we rode along together.

III.

As, for a short time, silence intervened, I had a good opportunity to observe my new companions more closely. One was dressed in plain homespun clothes, without the slightest approach to any sort of ornament, excepting the large hunting-buttons which adorned his loose, long-flapped coat. Even his equipments exhibited the same simplicity, for his pistol was a rough, uncouth-looking instrument, which would not have brought a dollar at any sale; and his knife had been broken in the handle, and mended up again with poorly-fashioned splints of oak. But something in the wearer's face assured me that he could use both pistol and knife to great advantage, if so compelled; for there was energy in his eye, determination in his mouth, and strength in his bony hand, which grasped the reins as though they were plough-handles. Upon the whole, I set my new friend down for a Tennessee or Kentucky farmer—middle-aged, deficient in education, but well skilled in woodcraft, hunting, and all those rougher pursuits to which a life in the West so well disciplines an energetic man.

The other person was not yet thirty years of age. He was tall and thin, and had all the unmistakable characteristics of the German race. He was, more-

over, something of a dandy ; for he wore a red sash, tied about his waist with an air of easy negligence, and his long beard and mustache were as accurately cut and trimmed as though he were still in an eastern city. His pistol and dirk were elegantly mounted, and stuck in his belt more with an eye to effect than for facility of handling. In addition to these little traits, it struck me that he was of a rather indolent and withal sociable disposition—possessing great talents, but without the energy to direct them properly ; having a good knowledge of human nature, but without those elements of self-action necessary to prevent the world from taking every advantage of him ; one of those cheerful, jovial men, who wander around the globe, engaging in every occupation, and never sticking to one for a year at a time ; taking evil with resignation, as the precursor of good, and good with equal equanimity as the reward of past deprivations, and one to be enjoyed recklessly while it may last ; spending large sums in the wildest extravagance in a single day, and starving with the most philosophical stoicism for the next week : in fine, a man of cultivated mind, great generosity, good nature, and unbounded confidence in some distant future—a capital good fellow to live with. I took a liking to him immediately.

“ Know Pickle Jack ? ” inquired the oldest of the two, whom I shall designate by the title of Kentucky.

“ No, ” I answered.

“Hard character in the Volcano. Thought everybody knew Pickle Jack.”

I had never yet heard of the Volcano; and though I, of course, conjectured that it was a new mine, yet I had no actual idea whether it was so called from any traits of inordinate excitability about its inhabitants, or whether from the fact that the miners might be compelled to descend into burning craters after the metal in a fluid state. So I inquired as to the direction and prospects of the place.

Kentucky drew a long whistle, significant of his opinion of my want of geographical knowledge; but before he had time to answer, the German put in his voice—

“Bad place—dig six weeks, and get hardly a kreutzer. Would be glad as I was in Gottingen again.”

“Pshaw!” muttered Kentucky; “you know, Burschenwolt, that you never worked hard. Now if, instead of laying off under a tree, smoking a pipe and playing with that cursed coyote you are trying to tame, you would go into it the right way, you would do well enough. Now I”—turning to me—“have worked hard: took out six ounces one day—ten the next—over a pound the next. Haven’t done much for the last two weeks, but am just beginning to strike a new vein. So, if you want a place to settle, come to the Volcano, where you will find plenty of gold, a raft of good fellows, and not a lawyer in the place!”

I at first thought that the latter recommendation was

meant as an encouragement to me to come and set up my "shingle" in his vicinity, where I might be sure of not encountering a too-heavy opposition; but, remembering that he could have had no possible way of ascertaining my profession as yet, I concluded, upon further consideration, that he was merely one of those misguided men who imagine all lawyers to be born as the pests and robbers of society, and was consequently only easy when he might be placed away from their malign influence.

"No place for them," continued Kentucky; "do all our law ourselves."

"Ah? Then you have an alcalde?"

"Why, no. Had one once, but he hung a man by mistake—so we determined in future to give a man a regular trial, and a good day if sentenced; and to do it ourselves, so as not to be bothered with any quirls, and quibbles, and long bills, of lawyers."

"And with what success?" I inquired.

"Why, we haven't had a case yet, but we hope for one soon. We are all anxious to be at it, and show what we can do."

"This is the place for me!" I reflected. "These fellows will get themselves into some scrape, out of which I shall have to help them; and then—"

Excited with the prospect, I dug my spurs into the sides of my mule, making him rear up like a young colt, and sung out for Memnon.

“Sar?”

“We will go to the Volcano, Memnon.”

“Bery well, sar,” said Memnon, perfectly satisfied.

I noticed that Burschenwolt gazed steadily at me, and slightly smiled, as though he half suspected my thoughts; for I knew that he must be too much of a man of education to share his companion’s prejudices, and I flattered myself that he saw something in my appearance to satisfy him that I was not one of the unlearned. But he said nothing, and seemed to await a further development of the plot.—It came.

“Traps?” asked Kentucky, pointing back to my baggage.

“Yes,” said I; “a tent—a few provisions and clothes—and a pick. That’s all, excepting”—and here I hesitated, not knowing how the disclosure might be received—“excepting a Blackstone and a Chitty.”

“Ah,” said Kentucky, not wishing to show any ignorance as to the articles in question, “those new-fangled rockers do n’t work well.”

Burschenwolt’s smile spread into a broad grin, displaying a beautifully white and regular set of teeth; and, as he reined up over a slight gully, he gave me a significant wink. Then I knew that I had the good fellow’s sympathies; and I enjoyed seeing the satisfaction with which he seemed to look forward to the developments which the summer might bring forth in the legal annals of the Volcano.

The conversation now languished, for we had been for some time ascending the mountain, and the many gullies which crossed the road occupied all our attention. As we ascended, the beautiful oaks disappeared, though the underbrush of dwarf-timber seemed to multiply. Pines of enormous magnitude covered the different elevations; and, instead of the single trees which first appeared, whole forests spread out on either hand before us. Then Kentucky, as leader of the party, suddenly turned from the main road and entered a narrow trail, over which ensued a long and fatiguing ride, which I finally began to think would never be ended.

It was quite dark when Kentucky told me that we had arrived at the Volcano. The wolves and coyotes were howling around us, and occasionally the report of a musket would salute our ears, but I could see nothing to indicate an approach to any settlement, excepting a bright light here and there—which, for anything I could have known to the contrary, might as well have belonged to an Indian lodge or a hunter's bivouac as the tent of a white person. My conductors, however, well knew the way; and Burschenwolt, with the kind intent of saving me any present embarrassment, offered me a share of his tent for the night, and helped us to picket our animals.

IV.

My fatiguing ride brought long and refreshing sleep ; for, when I awoke, the sun, at least an hour high, was glaring down upon me from behind the branches of a tall pine which stood directly before the tent. The other occupants of the tent were already active. Memnon was engaged in preparing breakfast, the cooking of which he superintended with an ardor which all my unfolded anticipations of a bright and glowing future had not been able to call forth ; and Burschenwolt was sitting at the foot of the pine, playing with his coyote, which snarled and snapped, and in a variety of ways manifested extreme disinclination to be tamed.

“Hilloa !” said Burschenwolt as he saw that I was awake ; “come forth for to partake of my very great bounties : beer of Westphalia—wine of Avignon—fruits of Sicily—all here spread out !” and he pointed, as he spoke, to the biscuit-barrel and sundry chunks of liver, which were lazily frying in the pan Memnon was holding. “My comrade, I have good proposal for to make to you. You see me here, an old lonely bachelor—no one to speak to, no one to smoke with. Often I wish as I was in Gottingen. Well, no matter. How you like for live with me ? We put one tent before

another : this be parlor—that be bedroom. All very grand !”

I readily assented to the proposed arrangement, as I also stood in need of society ; for, although Memnon was a good and faithful attendant, I sometimes found that, to drive away the blues, I lacked more intellectual company. So we arranged our parlor and bedroom, in a style which we were somewhat afraid would bring down upon us the name of being too aristocratic ; and then, after finishing my breakfast, I sallied forth to investigate the nature of the Volcano.

Imagine a plain about two miles wide by three long, enclosed on every side by hills—some rising with a gentle, undulating ascent ; others composed of hard, broken, jagged rocks, standing up as steep as so many Gibralters to guard the precincts. Upon the former grow the everlasting pines, towering two hundred feet high—not a mass of beautiful green foliage, like our smaller varieties of the East, but holding forth at irregular distances long, scraggly branches, but scantily furnished with blossoms. Upon the latter a few specimens of dwarf-oak have sprung up, to the bewilderment of all such as have ever imagined fresh earth to be necessary for the sustenance of vegetation ; or, instead, prickly shrubs hang over and reach their long arms down to the more favored soil below.

Behind these hills, others rise in repeated succession, some larger and some smaller, until, as far as the

eye can reach, undulating ranges of mountain-land form the scenery. And all these bear the customary weight of pine, which in clear days present a beautiful green boundary to the horizon; but, when the atmosphere is at all thick, so that the view is partly intercepted with rolling clouds of mist, look white and gaunt, like the ghosts of Indian warriors skirting the valley, and gazing wonderingly upon the rash intrusion of the whites.

Close to one side of the plain, the little groups of tents are pitched in close contiguity to a stream of water which gushes along at the foot of the hills, and quickly is lost in the unexplored wilds beyond. A few tents also stud the middle of the area—but very few, since the distance is too great from water, and the only advantage is in having a safer place to picket the mules and horses. There are jovial times here at night, when the pick and shovel are thrown beside the tent, and the watchfires are lighted, and the Mexicans crowd around their *monté-cloth*, and the more steady class of miners form in little groups, and, filling their pipes, beguile the hours with tales of life upon the sea and hunting-grounds.

Several ravines run in between the hills from the plain. Most of these are small, and there the miners can reach the foundation-rock at a very few feet, and be certain of two or three dollars a day, with sometimes more. This, however, is not sufficient to tempt the

majority, who prefer the greater lottery of a large ravine, which burrows in among the mountains, in some places, several hundred feet wide. Here holes are dug twenty or thirty feet deep, until the whole area looks like a vast tanyard. Hard work it is, too, grubbing about among the close-packed stones; and the greater number find, after weeks of extreme toil, that their labor is rendered ineffectual by layers of clay or sudden irruptions of water. But if, by chance, the proper strata are found, the reward is tenfold what can be procured in the more certain deposits of the smaller gullies; and the successful miner cheerfully loads up his sacks with the rich soil, and bears it down to the brook, there to wash it out and separate the shiny particles.

—“But the Volcano?” I think I hear you ask. Why, there are strange stories of extinct craters in the neighborhood, from which, in former times, the gold has been thrown up in its liquid state. Some assert—and I presume with truth, for I know of nothing in the nature of things to throw a doubt upon the statement—that they have themselves wandered off and climbed up where they could see the deep, black pits, within which the fires, so surcharged with richness, once raged. There are only a few who have proved thus adventurous, however, for Polok’s tribe is known to be somewhere in the neighborhood—no one knows in which direction—and Polok is currently reported to

be a most bloodthirsty fellow, bent upon taking the scalp of anybody who wanders off alone from the valley. In the valley, however, his murderous propensities never dare to display themselves; though at dawn crowds of bare-legged, copper-skinned subjects will wander in from the neighboring gorges, and amuse themselves in stealing whatever they can lay their hands upon, whether it be a horse, a wash-bowl, or a powder-horn.

It was evening by the time I had finished my explorations of the neighborhood. Then the miners, leaving some implement in the holes at which they had been at work, for the purpose of securing the goodly localities, began to wend their way home. The merry song here and there burst forth, and the lighted camp-fires threw a cheerful, ruddy glare upon the little groups collected about them.

The stars were gleaming forth in countless thousands, and the night set in cool and pleasant, when I again approached our tents. Burschenwolt was not there, however, and I wandered off again to find him, well knowing that his sociable, happy frame of mind would amply suffice to drive away all desponding thoughts from my breast. As I strolled on, I heard loud laughter issuing from one of the tents; and, attracted by the sound, I entered.

It was the largest tent in the settlement, and with reason, for it comprised the only place of merchandise.

Barrels of pork, bread, and liquor, were closely ranged around the sides, while sundry other articles, of a most miscellaneous nature, were hung against the canvass wall or from the cross-pieces of the roof. Among these I noticed a string of onions, suspended far beyond the reach of intruding fingers—the envy of the crowd—and ticketed at six shillings apiece.

The tent was full of miners—a motley crowd, composed of Yankees, Kentuckians, and Oregon men, with a fair sprinkling of Mexicans. They were sitting in the most easy positions they could find among the barrels and boxes, and apparently, to judge from the jocund laughter, heartily enjoying some joke which Kentucky, who was seated upon the counter, was detailing. Near by I perceived Burschenwolt, smoking the eternal *meerschaam*, as he listened to the joke with easy complacency. I stopped outside the tent, where the darkness concealed me, and listened for a few minutes before entering.

“And that’s the way I fixed his flint,” said Kentucky; “and, I tell you, that lawyer never again dared come near my plantation—no, never!”

A louder burst of laughter followed, and assured me that the lawyer referred to must have been “fixed” in a most amusing manner. I felt some anxiety to hear the story, but it was already finished, and I had no resource but to bear my disappointment like a man.

“He took Sam Golee’s farm from him, however,”

Kentucky continued. "Sam had n't much spunk, and the lawyer picked a quarrel and came around with writs and warrants, and all that, until one morning Sam woke up and found he had nothing left. So he went to Texas, *he* did."

"Glad there's none of that business here," another one observed. "If there was, I'd keep dark about that vein I struck yesterday. Feared he'd get it all away from me."

"Humph! they say there is one here. Long chap — came yesterday."

A universal burst of indignation followed the announcement; and sundry persons expressed their abhorrence of the monster who had dared to invade the peaceful precincts of the Volcano, in the prosecution of his demoniacal craft. One man slapped his hand upon his pistol, and expressed his opinion that if the fellow came near him, he'd catch it, *he* guessed. Of course, I began to feel very pleasant as I listened to these comments upon my character and destiny.

"Reg'lar take in!" said Kentucky. "Met the chap on the road myself. Invited him up here, for he did n't know where to go. Did n't know he was a lawyer, till Burschenwolt here accidentally let it out."

"Good fellow for all that," muttered Burschenwolt. "Have seen many a man as is worse."

This favorable comment was not attended to, however; for just then I felt some one jostle against me —

and Pickle Jack, who had at length managed to sober himself sufficiently to prosecute his journey, plunged into the tent. His appearance was the signal for a universal excitement, in which Burschenwolt was sunk to nothingness in importance: for every one pressed forward to shake the new-comer by the hand, so that it was evident that, in spite of his bad habits, filthy apparel, and overbearing mien, Pickle Jack was something of a favorite.

“Avast!” said Pickle Jack, when he had kissed some, leered at others, and shaken all by the hand, besides patting them on the back; how’s all in the old Volcano? Any new ones?”

“One—a lawyer, they say. S’pose he thinks he can play off his tricks on us.”

Pickle Jack had probably never had any property to be angled for by our fraternity; but that did not at all diminish the fury with which he jumped up and swore a great oath that if the fellow—poor I—ever ran athwart his cable, he’d smash his figure-head, &c., &c., &c. The rest, always excepting Burschenwolt, all said likewise; and as I perceived that they were about to commence drinking, and knew not what the influence of liquor might tempt them to, I used discretion, and prudently forbore my intention of appearing among them that night—choosing rather to slink away unperceived, and wait for Burschenwolt in the loneliness and darkness of my tent.

You may think, dear C——, that the prospect is not very encouraging for me, but have patience. I may possibly be some day knocked on the head, by reason of the present stigma of my profession; but if I survive such risks, the day may not be far distant when they will be obliged to come, in penitence and tears, to seek the relief which I alone will then be able to afford them.—So now, for the present, adieu!

V.

DEAR C—— : I can find no better opportunity than the present for telling you our manner of life ; and, as one day is pretty much like another, a very few words will let you into the whole mystery.

I generally awake very early, but do not always get up immediately. Instead thereof, I lie still under my warm blankets, collecting my faculties for the day, and enjoying that quiet half-hour before rising which every lazy man knows how to appreciate. As I gradually get more thoroughly awake, I lift my head slightly, and take an observation of all things about me. First, I survey our residence with peculiar satisfaction, for there are few or no tents in the place which have more of an air of luxury and comfort. The placing one tent before another, so as to form an ante-chamber for our baggage and provisions, and an inner apartment for our dormitory, was a great card, and attracted considerable admiration among the other miners. But, in addition to this, we put up sundry shelves for the support of our commodities, and hung our arms and other implements from the ridge-pole with tasty fastenings ; so that we quite distanced our neighbors in point of refinement—and, indeed, have seriously thought about

giving a grand house-warming of sea-biscuit, fried liver, and hot whiskey. In short, if style and splendor of living were held in proper appreciation here, as elsewhere, and I could wash myself from the stigma of my profession, I verily believe that I would stand a good chance of obtaining office in the settlement: but, unfortunately, I am a lawyer, and the miners hold true bone and muscle in too much respect to be fascinated by any glitter of aristocratic show which I can make.

Having contemplated my apartments with the proper amount of satisfaction, and gradually suffered my eye to drop from the rifle at the top to the bag of beans on the floor, and, moreover, casually glanced at Burschenwolt, who lies snoring at my side, I look without. Memnon is before the door, kindling a fire or frying pork at one already kindled; and alternately swearing, singing, and talking to the mules, as he snaps the dry fagots in two, or sprinkles pepper and salt upon the stew-pan. Occasionally he sets down the pan, and straggles off to bait our animals with a fresh wisp of straw; but never fails to dart back, after a minute or two, and swears very heartily if he finds a little corner of a piece of pork has been too much burnt in his absence.

But now the sun, which has before been obscured by the thick mist that rolls up from the distant hills, begins to burst forth; and a little irregular, red ball peers through the scattering rifts, like an eye. The

sounds of life and animation begin to prevail over the plain ; and occasionally a miner, with his shovel on his shoulder, passes my tent on his way to his favorite gulch. It is evidently time for me to get up.

In a minute more I have on my clothes, and am assisting Memnon. His soul has been previously worried with divided attentions to frying-pan and coffee-pot ; but now we practise the doctrine of division of labor, and soon manage to expedite matters. In a short time everything is nicely arranged before us ; and then Burschenwolt rolls out, with his meerschaam in his hand, as though he had slept with it.

He apologizes for not coming before to assist us. I accept his apology with a good grace, for I acquit him of any design of sponging upon our labors, knowing well that he has the will to awake early, but his body will not give him the way. He promises amendment. I listen with a smile, for I have heard him say the same thing often before. He requests me to awaken him the next morning early. I promise to do so, but inwardly determine not to ; for he looks so comfortable in his dreams, that I can not have the heart to disturb him. He tells me that he dreamed as he was in Gottingen. I point to the swimming pieces of fat pork, and ask whether Gottingen can furnish a meal like that. So, with infinite good humor, we sit down and crack our jokes and hard biscuit together.

Breakfast over, Memnon commences to wash up the

tin plates and cups, and I put the panniers upon the horse ; while Burschenwolt lights his meerschaam and sits down to smoke, playing with the coyote the while. I ask him whether he is not going to work to-day. He tells me that, as he has got nothing yet from his hole, he is certain as there can be nothing there. Once he told me that, as he picked out a good lump the day before, he was certain as there could be none left. And then he invariably ends up with wishing as he was in Gottingen again. I ask him to start a new hole with me, suggesting that we can work more effectually in company. He thanks me, but believes as he is not quite well. So Memnon and I take our implements, drive the horse forward, and depart.

Having arrived at our favorite gully, we take the pick and shovel, and, bending forward, commence loosening the heavy superstructure of stones, preparatory to getting at the valuable soil below. In this way we clear off two or three feet of the surface, which we throw away as worthless. It is very tough work, and pretty soon we feel as though our back-bones were tied up in very complicated knots. Still we keep at it, until the knots are tied up so tightly that it is impossible to continue. Then I drop the shovel, and look at Memnon. He drops his pick and looks at me, for he knows what is coming. I put my hand in my pocket and draw out my pipe. He does the same. Then we sit down on the rock and take a good long smoke.

Meanwhile the horse stands by with his empty panniers hanging over his back, and looks at us with curious gaze, as though wondering what inducement men can find to move them to pass their time in collecting so much dirt, when fresh grass, according to his notions, would be so much more valuable.

By this time it is noon. So, after our smoke, we load up the panniers, and travel down to the brook where our rockers are placed. Repeated journeys assist us in collecting quite a pile of earth ; and, when that business is finished, we both feel the want of a little dinner.

Returning to the tent, we find Burschenwolt still smoking his pipe ; but, in the meantime, he has prepared our meal, which is not only cooked nicely, but also served up with all the style which our limited materials admit of. We fall to ; then take another pipe, at which Burschenwolt joins us with avidity, as though he had n't been at it all day ; and after that, with a sigh we tear ourselves away, and betake ourselves to the rocker, for the purpose of washing out the earth we have collected.

Another back-breaking operation commences, and with ever-varying results. Sometimes we get out an ounce, and consider ourselves lucky ; at other times we find but a dollar or two, and then we bewail our miserable lot in terms affecting enough to move the genius of the place in our favor, if there were such a

person. Once, after working hard all day without any better result than a few shillings' worth of gold, we turned the last panful of earth into the rocker; and while Memnon was giving the last shake, and evidently unbottling his supply of oaths for speedy use, a bright piece of gold, worth over twenty dollars, appeared, and changed our sorrow into joy. Whatever our luck, however, we always return before dark, for the washpan is needed in the preparation of our slapjacks, and after that the horse and mules must have their supply of meal from it.

So the labors of the day conclude. Each evening, after we have supped, I feel called upon to state that mining is all a lottery, as though it was an original discovery of my own; and Memnon invariably responds with a "Yes, sar!" Burschenwolt also adds his testimony to the fact, expresses his opinion that it is a very poor kind of lottery, and wishes as he was in Gottingen.

"I should think," said I, one evening, after my astonishing remark had elicited the customary responses — "I should think you would do better in the settlements."

"Why you say so?"

"You are a man of talent, and of a kind which is peculiarly fitted for this country. You understand geology and mineralogy to perfection. Could you not get some employment in making surveys of the country,

and thus assist those who, wishing to develop the real resources of the land, and having the capital to work with, lack the talent?"

Burschenwolt knocked the ashes out of his pipe, filled up again, and, for a minute or two, sat smoking in a very melancholy mood. At length he spoke:—

“Try it once. That enough for me.”

“How so?”

“Year ago, I land in this country. I have three hundreds dollars. I want to go prospecting, but no one want to hire me. I say I good geologist, mineralogist, botanist, naturalist, and all that—but no good. At last one man say to me, ‘You know for to survey?’ I tell him I do, and he want me to lay out city for him. He promise as he would give me twenty dollars a day.”

“I consider that a very fair opening,” I said.

“Wait,” said Burschenwolt; “you then see!—Where I go to lay out city, it all flat; no trees—no houses. I work three months and finish. My three hundreds dollars all gone, for I must eat! Never mind—I take no care. My employer owe me ’most two thousands dollars, I say. I go to him, and he say he have no money, and that I must take my pay in his city lots. He give me twenty lots. What I want of them? The city turn out a failure. My money gone—no other employment for me. So I come here.”

“That was rascally,” I said.

“Sure!” Burschenwolt replied; “what I want city lots for?”

“But they may rise in value.”

“Never good for anything: too many cities. However, when I leave, I show lots to lawyer, and tell him, if ever good for anything, to sell out, and I give him part. But what use? I go down eight months ago, and only one house there. No—give me half my two thousands dollars, and I give you my dam city lots!”

The retrospect of his troubles made Burschenwolt very melancholy for a few minutes; and, sinking his head in his hands, he appeared plunged into deep reflection. By-and-by he arose, and, without speaking a word, went into the tent, threw off his coat, and lay down beneath his blankets.

The watchfire began to burn low ere I retired; but at length I also went in, and lay down by the side of my companion. Looking through the open door, I could see the stars glimmering in the heavens; and, as I marked their peaceful light, I felt enraged almost that they could shine down so quietly when so much wrong and injury was being transacted upon earth. Even the coyote seemed to have the same thoughts; for I could see him walking restlessly up and down, dragging his chain after him, and baying the sky with the most deafening howls. Once I thought that the

noise had awakened Burschenwolt, for he turned over upon the other side and muttered something ; but, as I leaned over to catch the sound, I heard only the word "Gottingen"—and then I knew that he was still asleep.

VI.

ONE evening, as I sat in the door of my tent, rolling the few grains of gold in my little buckskin purse, as I held it between my thumb and fore-finger, and wondering whether the purse would ever get full, and how much it would then be worth, I noticed a strange-looking figure approaching. The man must have been full six feet two inches in height, and possessed a countenance in which the strangest compound of character was written that I had ever seen. He appeared bold and determined, yet shy and reserved. There were the signs of education, even genius, in his high and broad forehead; and yet the lower part of his face showed, not vulgarity, but an evident acquaintance with vulgarity, which might some time degenerate into the extreme of coarseness. Though, from every motion he made, and from the little proprieties he made use of, evidently unconsciously to himself, I was convinced he must some day have seen the best of society, and not been able entirely to warp his mind from its influence, yet a certain hatred of the world and disgust of everything but the backwoods seemed to shade every feature of his face.

In costume, he was just as peculiar. Long, loose

pantaloon of white duck almost covered his feet, and were only held up by a red-silk sash tied tightly about his waist. So far, you would have taken him for a sailor, but the next step destroyed any such hypothesis ; for a thick Mexican poncho hung about him from his neck. A luxuriant black beard streamed down in front half way to his waist ; and a large blue handkerchief was tied about his head in place of a hat, and was arranged with considerable taste in large folds so as to resemble a turban as much as anything else. And, in spite of the singularity of such a costume, it was scrupulously neat, and on him looked well, though it might have appeared hideously upon any one else : for the wearer, setting aside those certain contradictory expressions of his features which I have mentioned, and which to many people would not have appeared at first sight, was rather a handsome man, and yet in his prime, being apparently not over thirty years old.

“ Who is he ? ” I inquired of Burschenwolt.

“ ‘ Gobin,’ they call him. There his dog after him. They call dog ‘ Gobinette,’ or ‘ Little Gobin.’ See — they no look alike ? ”

I confessed, when I looked at the little terrier, tripping along behind his master, that I could not see much resemblance ; but waiving the discussion of that question, I inquired who Gobin might be.

“ Who knows ? Some say he Scotchman — some say from Tennessee. Many try to find out ; no use,

though. He must just be back from settlements, for no seen him for long time."

"Well, I must get acquainted with you, my good friend Gobin," I said, as I watched his retreating figure.

"Hard thing to do," muttered Burschenwolt; and we said no more on that subject.

I found, upon inquiry, that it was an exceedingly hard thing to do; for many had made overtures of friendship, which had all been repulsed—some neglectfully, and some a little too bluntly to go down well with the social spirit of the great mass of the miners. My curiosity, however, had been excited, and I determined to make the effort whenever a suitable opportunity should offer.

The next evening, Gobin passed, on his way home, at about the same hour; and, as he came within a few paces of our campfire, I ventured a "Good-evening!" He merely looked at me, however, and walked on a little more quickly, while Gobinette showed his teeth and snarled.

The next night, however, he returned my salutation; while his dog merely lowered his head sullenly, and trotted on silently. The third night, I asked him if he would have some tobacco, which he declined, stating that he had plenty. The fourth night, he said he would have some, if it was of the right quality. Probably finding it to be of the right quality, he came

for some on the fifth night without waiting for an invitation. Then for some days I saw nothing of him, and began to fear lest he had escaped me, after all—when, one morning, as I was resting myself on the top of my shovel, and waiting for Memnon, who had gone back to the stream to fill the canteens with water, Gobin came striding over the hill, seated himself within a pace of me, motioned Gobinette to lie down at his side, and asked me how I did this hot weather.

I told him I was well; and then there was a long silence. It was evident that Gobin wished to say something of a more particular nature than common, every-day salutations, and I judged that I would not be likely to aid him by giving vent to any indifferent remarks. At last it came.

“Stranger, I like you,” he said.

I expressed my gratification at such a commendatory opinion, and hoped that nothing would ever happen to lower me in his present estimation.

“Look here!” said he, seizing me by the arm—whereat Gobinette growled as though he were a sheriff’s dog, assisting in an arrest—“I have wandered over most of this little world of ours, and seen every variety of life. I have lived among princes and savages—have slept in palaces and wigwams. There have men of almost every kind and character met with me as social acquaintances, but I have never yet found a friend. I have longed for years to stumble over such

a rarity, but without success. No one whom I could trust has crossed my path; and, as year after year of solitary life—solitary as respects communion of mind with mind I mean, for much of my existence has been passed in crowds—has gone over me, I have sometimes been wrought up to mental frenzy for want of some one in whom I could confide. I am now tired of expecting to meet such a person, unless I look for him. Will you be my friend?"

I answered that I should be happy to serve him in that capacity, but doubted whether I should be able to equal his expectations.

"I expect not that you will die for me," he said. "The days of Damon and Pythias have long passed away. But if I can come, now and then, of an evening, and talk with you, instead of moping in the solitude of my tent—and if, more than all, I can be sure that whatever confidence I put in you shall be sacred—it is all I ask."

I, of course, promised all this, and fervently grasped the hand which he held out to me. In doing so, I noticed upon one of his fingers a large ring with something that appeared like a crest engraved upon it. He observed my curious glance, and muttered something about old associations not to be parted with, or some words to similar effect.

"But come," he said, "I will tell you my story, since we are to be friends"—and the whole course of

his life bubbled out before me, with a distinctness which surprised me—until I reflected that a man of reserved habits and disposition is generally the most apt to tender the fullest confidence when once aroused, as though long abstinence from confession produced such an increased appetite as not easily to be controlled.

It appeared that he was of a high Canadian family, and, in some distant manner, connected with a former governor-general. His real name, of course, was not Gobin—the latter being an appellative acquired in the West, and which he was well contented to respond to, as it answered all the purposes of disguise. He, however, told me his family name; but, for obvious reasons, I will not mention it.

Having begun life with a fortune, and considering a college career the most agreeable way to spend it, he entered at Toronto, where, being of a finely-cultivated understanding, he bade fair to run an honorable career. This, however, was interrupted by a sudden fit of disgust at some fancied insult from one of the professors, under the influence of which he resigned his place and left, covered with debts of all kinds. All was not lost, however; for, clearing himself by the sale of his last paternal acres, and then having a few thousand pounds left, he entered a foreign embassy, in which he spent most of the remains of his fortune. Then, those whom he had considered his friends, left him; and he returned with a heart embittered against the world, a

feeling of which he yet bore the impress. The sequel was as remarkable as any of the rest of his life. He penetrated the wilds of Upper Canada, and for some time lived among the fur-hunters and friendly Indians, by which he acquired many of their customs, and from habit began to like such an unrestrained kind of life. A sudden quarrel, in which he dangerously wounded one of the hunters, obliged him to flee to our western states. Thence it was but a few steps to California.

“And there you have my life!” said he, bitterly—“a story of neglected opportunities and headstrong passion. I have now become so used to the wilderness, that I doubt whether I could return to civilized life with any comfort; though such is the contradictory nature of mankind, that, in spite of such doubts, I am continually longing for an opportunity to retrieve myself. Anyhow, I can say this: if I had had one good friend to counsel me, and draw me away from dissipation, all this would not have happened. But they were all alike—ready to consort with me while my money lasted, and all the time making great professions of friendship; but, afterward—where were they?”

“You should have married,” said I. “Of course, I know nothing about such a state, but they tell me that a wife is the best friend a man can have.”

“Would you believe,” said he, “that the only woman in whom I could ever take an interest I found in

the wilds of Tennessee, in a plain, log-built cabin? Ay, the beauties who dazzled society had no attraction for me; but the simplicity of one who, in my native place, would have been looked down upon as the dust and slime of the earth, first made this heart of mine throb with love. I would have lived with that pure young girl in the meanest cabin ever erected by man. But it was fated not to be."

"And why?"

"Why should I, the consort of wandering, rough hunters, be there equal with men who, though they did not begin life with a fortune, had their comfortable houses and their thriving farms? No—my suit was kindly but decidedly rejected; and, when I persevered, her brother ordered me from his house. I do not complain of him. I was a wandering, unsettled character; and, as he cared for his sister, he did right: But the form of that young girl has followed me across the mountains; and though she can never be mine, yet I would die to do her service."

I was about to make some answer in sympathy, but he stopped me.

"Nay, no more of that. I have told my tale, that you may know what sort of a fellow I am, and thus be able to account for any absurdities which you may notice in my conduct. But spare your sympathies, or at least do not express them; for such talk sounds too much like the hollow courtesies of the world I

have left behind me, to be real. Let actions some time attest your sense of sympathy.—And here comes your man Friday: so, for the time, farewell!”

I looked up, and saw Memnon come prancing over the hill, with the well-filled canteens jingling together over his shoulders; and when I turned again, Gobin had gone.

VII.

THE next morning, I was enjoying my latter snooze with a very dim perception of the outward world, and a remarkably distinct realization of the pleasurable warmth of two thick, shaggy blankets, while in my heart I was laughing derisively at the effeminacy of men who desired the additional luxury of sheets. For I was very well satisfied with myself. The afternoon before, just as I was preparing to leave off work for the night, I had exhumed a bright lump of gold weighing upward of half a pound. Think of it, dear C——! How many mortgages would you be obliged to foreclose, or notes to collect, ere you could make what I made with a single thump of my pickaxe!—though, to tell the truth, it is not every day that I dig up as much, and in the long run I seriously doubt whether my gains will average those of a third-rate attorney in our eastern home.

But never mind: I was in very good temper, for why should there not be another lump somewhere near the last, or perhaps several, and why should not some of them be even yet larger? So I had about worked myself into the belief that my fortune was made, and that I should have nothing to do but to throw away

my rifle, come home, and buy a villa on the Hudson, when Memnon, with an excited look, came to the door.

“Sar?”

“Well!”

“Teams coming!”

And he vanished as suddenly as he appeared, without further explanation, and leaving me none the wiser for his information.

What teams? from where? If Memnon had told me that a caravan was coming down from the moon, I should probably have lain quiet in my warm blankets, and said, “Let it come;” but my curiosity was now excited, and, after a minute, I rolled out to take an observation, closely followed by Burschenwolt.

I found some slight commotion in the settlement. One of the more daring miners, who had been off on a prospecting expedition among the eastern hills, had got back that morning, after camping out in the bushes part of the night a few miles off; and had brought the information that some of the overland teams were coming in, in that direction, and would probably soon arrive. Upon being asked how many, he said he did not know; he had seen two from the top of a neighboring mountain, and perhaps there were more in the gorges between.

The information, slight as it was, proved sufficient to suspend all work, while the miners anxiously waited for the approach of the strangers. Some were desirous

of hearing about friends who had undertaken the overland journey to the land of golden promise ; others, having no friends on the route, possessed a lively curiosity to hear about the general prospects of the several trains. Some appeared to dislike the thought of the expected arrival, and prophesied that the train might be a long one ; in which case, if it tarried with them, instead of proceeding at once to the settlements, all the eligible places for digging would soon be occupied. But the greater part of the miners seemed pleased at the approach of any excitement. Among them I noticed the storekeeper, rubbing his hands in ecstasy ; for he knew that the overland parties generally came in with their provisions pretty much exhausted, and he owned sundry barrels of pork and flour, upon which he trusted to realize a large profit.

Toward ten o'clock, then, we saw dark objects moving over the rounding top of one of the hills. The next minute they proved to be cattle, for the big white top of a caravan-team immediately followed. One more, and only one, soon appeared ; and then the miners mounted their horses, or, running off on foot, hastened to the scene, for the purpose of scrutinizing the strangers, learning the news, and offering assistance, if any was required.

Burschenwolt, Memnon, and myself, accordingly followed the general example, and arrived at the required point about the same time with the rest of the

settlers. Upon examination, we found the first of the wagons to be in charge of two raw-boned Indiana youths, of athletic proportions, who looked as though they had lived with cattle all their lives, and whose only word with us was, that they had started from Fort Independence five months before, and had had a pretty smart race of it to get in so soon.

Despairing of obtaining any more news from these two specimens, we rode off to the second of the wagons, which was at some little distance off. It was drawn by six oxen, which appeared to be in good condition; and, to the disappointment of the storekeeper, the provisions were not all exhausted—enough remaining to supply a respectable-sized company for weeks. A stout, good-looking young man was driving, occasionally turning round to speak to some one within.

I turned to the back of the wagon, and took a peep, expecting to find a sick man, or perhaps only a dog; but, to my surprise, I beheld quite a pretty-looking young girl, about eighteen years old. She bore such a strong family likeness to the young man driving, that I knew he must be her brother. She was sitting sideways, upon a barrel of biscuit, with a piece of knitting in her hand; and, as occasionally she turned her head to take up a stitch, I was enabled to take a good look at her without being seen.

You know, dear C——, that we both have seen a

great many pretty girls in our lifetime ; but I would challenge any array you could make from the city, to equal this blossom in the wilderness. Her hair was— but pshaw ! you will not expect me to go, novel-like, into a description. Suffice it to say, that she was beautifully formed, and had one of the sweetest expressions imaginable, while the plain dress which she wore seemed to add to the charming simplicity of her appearance. I foresaw, at once, that if they stayed any time in the settlement, half the miners would be getting in love with her.

I turned to look for Burschenwolt, in order to point her out to him, but he was gone from my side. While I had been peeping through the crevices of the canvass, he had heard the brother say something in German, and instantly he had run to hold a conversation with him. You know how naturally clannish the Germans are. This case was no exception ; for, although the brother appeared exceedingly offish and reserved to all around him, yet it was not two minutes ere he and Burschenwolt were jabbering away in High Dutch with the greatest volubility : and the next I saw of Burschenwolt was at the place which they seemed to have selected for halting and pitching their tents. Burschenwolt was politely helping the young damsel from the wagon, while the brother stood calmly by, unhitching the oxen, and looking as though he would knock anybody on the head who dared attempt a like piece

of intimacy. "Truly," thought I, "Burschenwolt is a lucky fellow!"—but then, as I reflected that it needed but those bright eyes to set him crazy, and make him lazier than ever, I felt that many a more fortunate event might have happened to him.

"You see they leave Tennessee with large company," said Burschenwolt, when we met at evening, and I had had an opportunity to put the question to him; "but when get this side of Snowy Range, all rest branch off to Upper Mines. So they come in alone with Indiana boys."

"But who are they?"

"Hoffengel their name. They come over from Germany (I would be glad as I was there!) when quite young, and settle in Tennessee. Then father and mother both die—and brother left alone with sister. Then things no go right, and sheriff seize their house for debt—so come here to try what to do."

"She must be a hardy girl to stand the journey," I said.

"Ah, her brother take good care of her—no make her work any. Fine girl, though! Not every girl as could do as much"—and I thought he spoke with considerable feeling, mingled with devout admiration.

"You are fortunate in getting so soon acquainted."

"Ah, German know German at once in strange country, so get along very well. Some others look jealous

at me, but what I care? Ah, ha! you should have see Gobin."

"What of him?" I demanded.

"Why, when he see who I talk with, he turn pale as sheet; and then he come forward a step or two, as though want for knock me down, and then go back as though he knew the girl, but no want her to see him. Never see man act so strange."

In an instant the whole thing flashed upon me, and I muttered the words "Tennessee," "Gobin," and "turn pale," mechanically, in my amazement. Then I tried to banish the suppositions which arose within me, as too absurd and unlikely; but still they returned with additional force, as I reviewed what Burschenwolt had told me of the poor man's conduct. Hardly knowing what I did, I arose, and, without putting on my hat, walked to the door.

"Why you go?" said Burschenwolt; "better stay for smoke."

"I must go," I merely said; and I left him with the intention of seeking Gobin, and ascertaining whether my suspicions were correct, or rather of discovering the state of his mind; for I could not doubt the connection of the young girl with what he had told me the day before. But Gobin was not in his tent, nor yet in the store; and I was returning, after my fruitless search, when I noticed I was passing the place where the newcomers had pitched their camp.

A large neat tent had been carefully stretched over its poles, and beside it stood the wagon; while the oxen were quietly grazing one side, in utter unconsciousness that this night's bivouac was not like the rest, but that their labor was over. From the interior of the tent a bright light shone, and merry voices inside assured me that the brother and sister had already arranged their few articles of housekeeping, and were now making themselves pleasant at the successful termination of their journey; and, as I passed on, the fold of the canvass-door was thrown one side, and the young girl stepped forth.

At a distance safe from observation, I leaned against a giant pine, and gazed at her, as she looked up at the sky, and seemed to be muttering her evening prayer. Never before, dear C——, had I seen a face with so much sweetness and Madonna-like expression impressed upon every feature. I stood, and, as it were, drank in each holy feature; and, as I watched the trembling of her lips and the moistened beauty of her swimming eyes, I almost felt as if I could have worshipped her. Full of strange, inexplicable feelings, I was about to tear myself away—when I heard a quick step, and a scream, and saw her struggling in the arms of Pickle Jack, who, as usual, was beastly drunk.

“One kiss, my pretty bird!” I could hear him say.

I was about to dart forward, but was too late; for her brother leaped from the interior of the tent, and,

like a very fury, dashed the fellow to the ground, and then spurned him with his foot till I thought he would kill him, while the girl, weeping at the outrage, fell back within.

“There will trouble grow out of this,” I said to myself, as I watched the sailor raise himself slowly and retire, shaking his fist at the brother, and muttering oath after oath of deep revenge.

And I returned to my tent.

VIII.

My first business the next morning was to make a further search for Gobin—to the furtherance of which I even consented to give up, for the time, any endeavor to rescue those other lumps of gold from their native soil, thereby remaining one other day idle. But my search was short: for hardly had I left our tent, when I perceived Gobin standing beside a dwarf-oak, at some little distance off. His head-dress was pulled over his eyes, and his head was bent to the ground; and, as he stood without so much as moving an inch from his position, it struck me that he looked remarkably disconsolate.

I walked quickly toward him; and then, as I came near enough for him to hear my footsteps, he started for the first time. I noticed, for an instant, a wild gleam in his eye—which confirmed me in an opinion I had already begun to entertain, that his peculiar manners were not so much the results of any particular eccentricity, as the development of some slight features of hereditary insanity, which the roughness of western life might have excited in a frame already broken down with the excesses and wild irregularities of youthful dissipation. I felt that, though his malady might not

be sufficiently advanced to attract observation in persons who were not well acquainted with him, yet he was in that state of mind in which a little provocation might more fully develop its seeds; and give rise to deeds to bloodshed; and that, as I appeared to be the only person to whom he had made any proffers of friendship, it was my duty to watch over him carefully, though without exciting his observation, and thus strive to prevent any serious consequences.

“Gobin!” I said, touching him on the shoulder.

He looked at me, but said never a word.

“Why so sad, man? Cheer up a little bit!”

He stammered, and hesitated, and for a moment seemed to forget that he had requested my friendship, and appeared as though deliberating whether or not to hasten my departure by some summary, harsh words.

“You know, Gobin, that you wished me to be your friend, and told me that the time would come in which I could test my feelings by actions. Now you seem as though you needed counsel of some kind. Out with it, man!”

“If you knew all—” he commenced.

“I do know all,” I said—deeming that he would not take offence if I saved him any explanations—“about the German girl who arrived yesterday, from Tennessee—your old love. All that I know, as well as you do.”

Contrary to my expectations, he seemed to manifest

no surprise at my knowledge, unless in the single muttered exclamation, "How strange!"

"Not at all strange," I answered. "Any one who had heard your previous story would have guessed at the same by marking the way in which you met her. Why, man, you must keep your feelings closer, or the whole mine will notice that something has gone amiss."

"It's hard—very hard!" he muttered.

"Well, yes," said I, in a somewhat doubting tone; "but every one thinks the same things when he is unfortunate in his love affairs: and I never knew any one yet who did not bravely get over it in a very short time. Now, Gobin, let me tell you what to do. Work hard, and get your pile. Then go to the East with it; rejoin the society which you so summarily left; look out for some girl suitable to your tastes; and, trust me, the time will come when you will forget all about the German girl—or, if not, feel as though you were ready to dance at her wedding with the best of them."

Very good advice indeed, and which every despairing lover gets from some kind friend or other, without producing the least effect. In this case also it entirely failed, for Gobin uttered some contemptuous expression, with a lip very much curled up, and, ere I could stop him, turned upon his heel and walked off at a very quick pace. I attempted to follow, but he moved his hand repulsively at me, and hurried on still faster.

"Go!" I muttered, for the time out of all patience

—“go, and, in your sullen fits of discontent, see if your favorite solitude will cool down your mind any better than the suggestions of one who would be your friend if you would let him.”

But, in a minute, I cast these unjust reflections aside, and felt more inclined to pity poor Gobin—considering that my advice, though well meant, was perhaps rather harshly put; and that, with a little more thought, I might have given him much better encouragement. And, as I remembered the almost insane expression of his eyes, I determined to keep a close watch on him, and if possible, by salutary treatment, obviate any unpleasant consequences which might threaten to ensue.

While I was engaged in such cogitations, I suddenly noticed that I had approached the tent of the newcomers, and it struck me that it would be a very good idea to become acquainted with them; so that, by getting myself into their confidence, it might be possible to learn some traits in Gobin's character, the consideration of which would enable me to settle upon a course of action suitable for the gradual eradication of his fatal passion. With this view I approached, and made my presence known by a loud “Hem!”—and then, with the easy air of a loungee, endeavored to open a conversation.

“Fine day,” I said.

The brother was splitting up some wood, while the

sister was sitting upon a camp-stool half in and half out of the tent-door, and busily engaged in kneading up some flour. As I made my original observation, she moved back till the canvass-flaps fell over her and hid her from view; while he merely looked up for a minute, and made some gruff and inarticulate reply.

“Pleasant treatment,” I thought, and I felt inclined to give it up; but I determined to make one more trial, and so seated myself upon the grass, and commenced playing with my knife, in the way boys play “mumble the peg.” The brother looked savagely at me for a moment, as though wishing to find some pretext for my expulsion; but, as he did not happen to have the fee-simple of the land near his tent, there was nothing left for him to do but to go on with his work, which he did without making any remarks about my pastime.

“Been digging yet?” I said, after a long silence.

“No,” he gruffly said, and moved off a little way farther from me; while, upon glancing around, I noticed that his sister had watched her opportunity, and, while I was not looking, had drawn her pan of flour after her into the tent.

“Hem!” I muttered, pretty thoroughly abashed, and a longer silence ensued. But then it suddenly occurred to me that no one could be likely to detect a gentleman in such clothes as I wore, and that perhaps he thought me to be some mere ignorant loafer, whose society would be disreputable and troublesome. “Egad!” I thought,

“I’ll give him one more trial, and endeavor to show him that, in one respect, I am a little better than I seem.” So I cleared my throat, and commenced again :—

“Pretty fair specimen of mountains here, eh?”

“Yes—but I have n’t time to talk about them now,” was all the answer I obtained. Still I persisted.

“Now, your famous Hartz mountains of Germany could hardly be wilder in their aspect than these. I have often fancied that this might be the very place for the dwelling of some Mephistopheles.”

I saw I touched him there, and in a favorite spot. He stopped in his work for a moment, and looked at me in some surprise, as though wondering how such a rough, sailor-looking fellow as I should speak about Mephistopheles, in preference to Davy Jones.

“Are you fond of Goëthe?” I asked, seizing the opportunity.

“Passionately,” he exclaimed, as what German in a foreign country is not?

“And Schiller?”

“Yes,” he answered, looking more and more astonished.

“So am I,” was my answer. “How finely these lines of his chime in with the present scenery!”—and I repeated a stanza or two of the English translation. He almost was ready to fly into my arms as I spoke.

“But come, I have already whiled away too much

time," I said, rising as if about to go; but I knew that the desired impression had been made, and that he would not let me depart without some further communication. I was right.

"Stay," he said, "I thought you were—" and he hesitated.

"Very probably," I replied, "for but few of my quondam associates of the New-York bar would recognise me now. A red shirt and a ragged hat give but few appearances of the former gentleman."

"And I have been rude to you," he said, somewhat painfully. "You must forgive it, sir. You know that, having my sister with me, it is necessary to be on our guard against forming intimacies with strangers; and," he added, while his eyes flashed fire, "I was obliged to avenge an insult to her only last night."

"I am not one, however, to insult any lady. But good-day," I said, pretending to be about going.

"Won't you stay a little time longer, sir? We need good company, when we can find it."

I pretended to hesitate.

"And there comes a good friend to join us," he added, pointing to Burschenwolt, who was gayly coming along, dragging his coyote after him.

"My chum," I said.

"Ah? then you are the person he mentioned to us last night. So stay."

I consented. Burschenwolt came up, the sister was

encouraged to come forth, and we clubbed our resources together for dinner ; and the upshot of it all was, that we spent a pleasant and sociable day together, and got very well acquainted.

As a contrast, while going home in the evening, I stepped into the store—where, in consequence of my not as yet having developed any of my lawyer-like ways, and also having been seen digging “like any other Christian,” as some said, I was tolerably well received ; it being deemed that I had been converted from the error of my way, and, as such, had altogether dropped my professional character. Kentucky, as usual, was sitting on the counter ; while Pickle Jack, drunk as ever, and with his face so much swollen from the beating he had received, that he looked like a perfect demon, was detailing his grievances to the little crowd that stood about him.

“And so, you see, he took me unaware, and d—n him, see my eye !” pointing to the swollen lid—“and just because I kissed the little bird he has with him, and who ought not to be ashamed to be kissed by a Yankee sailor.”

“To be sure,” murmured the crowd, whom he had just treated.

“And, d—n him ! I’ll have his heart’s blood ! I’ll shoot him to-morrow !”

This began to look serious, and some endeavored to soothe Pickle Jack, but with no effect. He still

swore that he would kill the poor German brother, and thus have his revenge ; and very few there doubted that he would probably do so, if he had an opportunity. But, at last, Kentucky hit upon a scheme to pacify him :—

“ No, no, Jack, but I calculate there’s a better way. Why don’t you marry the girl ? ”

“ What ? ”

“ Marry the girl ! Don’t you suppose she would be glad to get a good-looking fellow likè you ? What girl would n’t want to marry the Yankee sailor ? ”

“ To be sure ! ” said the rest of the crowd, as they filled up again.

“ And as for her poor devil of a brother,” continued Kentucky, “ let him live, so that he may see the girl with you at her side. He probably wants her to marry some white-livered fool like himself ; but let him live, to see her run off with the Yankee sailor. There’s your revenge : marry her, Pickle Jack — marry her ! ”

“ Ship ahoy ! ” roared Pickle Jack, setting aside his sanguinary intentions, as the idea struck him ; “ I’ll do it, I’ll do it — I’ll marry her — I, the Yankee sailor ! And boys, remember, we’ll have a grand drunk at the wedding ! ”

The excitement, as each one then filled up, and, under the impulse of the strong drink, danced, leaped, and sung, became intense ; and I proceeded to make my exit, and retired to my tent, almost disgusted with

the whole world. Long after I lay down, I heard shouting and wrangling in the distance, and occasionally a pistol fired wantonly in sport ; but at length, the noise began to die away, and I fell asleep.

IX.

SUNDAY is perhaps the liveliest day we have at the mines. Some faint glimmer of early instruction teaches the miners that they must then leave off work, which they do with a great deal of satisfaction. The pick and shovel are thrown down in their respective holes, there to rest until Monday, while the owners betake themselves to other occupations. Some go out to cut wood or grass for the week's consumption, which always seemed to me to be very much like changing one kind of work for another. Others rigorously obey the injunction against any sort of work, and, as a pleasant alternative, spend the time in drinking, carousing, and gambling. All seem to enjoy the coming of this day, for which they have longed through the whole week, as though there was any earthly power which compelled them to work at one time more than at another.

The next day was Sunday. When I awoke, there was a confused shout near by from a party of men who, with great glee, were shaking up some whiskey in a stone jug; and, mingled with it, came a loud oath from a man who had just lost his last dollar at a monté-bank which a Mexican had spread out upon the grass a little farther off. And, upon getting up, I saw Bur-

schenwolt sitting in a corner of the tent, and smiling satisfaction.

“ Sunday !” he said.

“ Well,” I thought to myself, “ as you have n’t done any work all the week, I do n’t see that it will make any very particular difference in your pursuits.” But I did not say so.

“ Now you can stay home—smoke with me. I tell you all about Gottingen.”

“ Oho !” I thought, “ then it is merely company that you gain ; though, ten to one, before I have been with you a quarter of an hour, you will stray off to see the German damsel, and I shall be left alone.” But still I did not say anything, and in silence dressed myself, lit my pipe, and, sitting beside my friend, watched Memnon’s preparations for breakfast.

Just then, however, we noticed that a man ran toward the party of drinkers, and said something to them in an excited manner ; whereupon they all jumped up, thrust the jug aside, and scampered off to their several tents. The monté-banker, who had leaned forward to hear the communication, swept his money quickly into his canvass-bag, and followed suit ; and in a moment more we perceived a growing excitement all over the mine—some getting out their arms, and others saddling their mules, in a great degree of impetuous haste. Being of a somewhat curious nature, I accordingly sent Memnon to learn what was the matter, while I attended

to the slapjacks ; and soon back he came, his eyes sticking out like two door-knobs.

“ Well, Memnon ? ”

“ Gorra, sar — Ingens ! ”

“ Well, the Indians come down every day. I don't see anything to be alarmed about.”

“ But dese come in night ! — steal two mule — one horse — kill one ox ! So dey go for to make up party for to shoot dem ! ”

Burschenwolt started up in great animation, and picked off his rifle from its hook — being in a perfect transport of delight at the prospect of something unusual to do. As for me, I also took down my firearms, being quite ready for any little retaliatory excursion into the mountains ; and ordering Memnon to keep by the tent during our absence, and saddling our mules, we seized a few pieces of our flour-cake and pork, and rode toward the centre of the encampment, where a considerable party of men had already mustered.

There was Pickle Jack, looking quite wild after his debauch of the previous night, while his horse evidently bore the marks of ill treatment, to judge from the torn flanks, where the long Spanish spur had been ruthlessly pressed. There was Kentucky, looking as cool as though chasing Indians had been his daily pastime from his youth up, and, from horse to hunting-knife, appearing the true embodiment of my idea of a western hunter. There was Gobin, somewhat excited

in appearance, but having less of that peculiar, insane glare in his eye than I had expected : perhaps that these preparations for a wild hunt, in reviving his recollections of old pursuits, had in some degree restored the tottering equilibrium of his mind. There was the German brother, Hoffengel, cool and rather offish in his manner, and appearing, by reason of his unsocial disposition, as much shunned as shunning. And, in all, about thirty had collected, on mules and horses — some their own, and some borrowed ; and we waited but the word to advance.

“It’s them Polok’s tribe has done it,” said Kentucky ; “Cacoux’ men are not such cursed varmints as to steal their neighbors’ beef and critters. But come, let’s be off!”

So we prepared to plunge merrily on — some shouting, some swearing, and some laughing — and each one, as it seemed to me, as anxious to distinguish himself by killing an Indian as to get back the stolen property.

Kentucky, by reason of his superior knowledge of woodcraft, was elected leader by unanimous consent, and well he displayed his capabilities for the trust ; for when we were thus about to start off helter-skelter in almost in any direction, he checked us, and announced his intention of first making an examination, by way of determining the course in which the marauders had departed with their stolen property. Accordingly, direct-

ing us to keep our places, he made a tour of a few hundred yards around the valley ; and, soon returning, announced that he had discovered the footprints of the missing animals, and that all we now had to do was to follow the trail.

“Yes, boys,” he added, as we set off, “it’s the cursed Polok’s tribe as has done it—you may be sartin of that!” His conjecture also received confirmation from the fact that, whereas every day the Indian boys of that tribe swarmed down upon us from some invisible inlets, for the purpose of bending all their energies toward the acquisition of any articles which might lay too temptingly in their way, this morning not a soul of them was to be seen. The rascals knew too well what a searching examination into the doings of their tribe they would be obliged to undergo if they dared to make their appearance.

Over hill and dale we straggled on, all the time keeping the fresh trail in full sight. We were, on the whole, a merry party, and all seemed to enjoy the expedition—with the exception of Kentucky, who rode at our head with an air of immoveable stolidity ; Pickle Jack, who swore very much, as he every now and then lifted his canteen of liquor to his mouth ; and the owner of the stolen property, who appeared rather anxious and troubled : and at last, after riding some seven or eight miles, we came upon one of the Indian villages, a little concourse of brush huts—and wildly pounced

down upon it, with the intention of gaining information about the fugitives.

The men belonging to the village, however, had all fled, and nothing was left but dogs and the women, which latter sat upon the ground, pounding acorns. They scowled at us fiercely, and appeared not to understand anything that was said to them; until Kentucky, pointing his pistol at the head of an old wrinkled matron, without a vestige of clothing upon her venerable person, addressed something to her in broken Spanish, at which she seemed to recover her wits, and, in the midst of a most voluble series of Indian and Spanish oaths, pointed to a defile on the right.

We rode thither, but found no trail. Pickle Jack strongly advocated the expediency of shooting the old crone through the head, as an example, and then questioning another, but we thought it would save time if we made use of our own instincts; and accordingly, after making another circuit, as had been done at first, we struck the trail again, in a direction directly the opposite of that which had been pointed out to us, and proceeded on our way, followed by revengeful oaths from all the women, and shrill barking from all the dogs.

And at last, after journeying some five or six miles farther, the trail became fresher, and we came upon the fugitives. There were some fifty or sixty of the Indians, about a hundred rods before us—some on

foot, and some riding the stolen animals, upon which the remains of the slaughtered ox had also been nicely packed. Upon seeing us, they gave a loud yell, and scattered in different directions; and Kentucky giving the word, we also separated in pursuit.

Burschenwolt and myself, with three or four others, dived after a party of about a dozen of the Indians, while the rest parted in another course. Among other parties, I saw Gobin, Pickle Jack, and Hoffengel, starting off after three Indians who were endeavoring to run away, unperceived in the tumult, with one of the mules among them. Then the chase prohibited further observation, and we dashed madly on after our quota of the fugitives.

We had no cause for bloodshed; for the red rascals, after letting fly a few harmless arrows, kept on at such a pace as prohibited us from having a fair pop at them: and as we could perceive that they had none of the spoils with them, we desisted from the pursuit after a very few minutes. Then we heard Kentucky shouting the recall; and returning, found our party collected together in a small compass. As we arrived, Hoffengel came in from another quarter leading the mule which he had succeeded in recapturing.

The report of the list of killed and wounded was small, for no one upon our side was hurt. One of the Indians had, however, been killed by Kentucky's unerring aim; and two others had been observed to yell

and limp away, as though they might have bullets in their yielding flesh. The two mules had been recaptured; and thinking it hardly worth while to continue the pursuit after the horse, which by this time must have been far beyond our reach, we set out on our return—Pickle Jack having first, with a savage exultation which did him very little credit, torn the scalp from the head of the dead Indian, and stuck it as a trophy upon the end of his rifle.

We again passed through the village, where the sight of our party, with the rescued mules, was greeted by all the women with a loud and long howl; and where Pickle Jack amused himself with thrusting the reeking scalp in the face of the old hag who had endeavored so wofully to misdirect us: and then it suddenly began to be inquired where Gobin was. No one knew, and a cursory examination proved that he was not among us. Pickle Jack and Hoffengel both said that he had been with them, when the division of our forces had been made, but that, in the pursuit, they had lost sight of him. Some spoke of returning in search of him, but it seemed a useless proceeding—since, if evil had happened to him, he must be now far beyond our assistance; and, if he had not fallen, he could easily find his way back alone. So we continued our journey, and arrived back at the Volcano late in the evening.

X.

DAY after day passed on, and yet nothing was heard from Gobin. For a time, his fate was the theme of universal conjecture; and while most of the miners argued that he must have been decoyed off in the chase, and slain by the Indians, there were a few who maintained that he would eventually straggle back again. Thus, by their discussion of probabilities, they served in some degree to keep up the excitement; but soon other topics commenced to claim a share of conversation. Gobin, by his uninviting conduct, had made too few friends to interest the miners long in regard to his fate; the subject, once flagging, was not renewed; and, in a short time longer, all gave him up, and a stranger might have passed weeks in the mine without even hearing about the missing man.

As for myself, so strongly had I become interested in the eventful career which Gobin, in his slight impulse of confidence, had laid open to me, that it was long ere I could believe him to be dead. For many a day I started at every step, expecting to see the poor fellow before me. But at length, when I considered the chances of escape, I also was obliged to give him

up, as one lost from the world ; and I prosecuted my daily labor with a saddened and less hopeful heart.

In the meantime, Burschenwolt and myself were constantly extending our acquaintance with the two Hoffengels. Though cold and distant before others, to us they were social and confiding ; and, as day by day we became more intimate, we found new points in their several characters to admire. Gaspar Hoffengel we discovered to be a fine, open-hearted, manly fellow, and one who would have been deservedly popular with the miners if his duties to the interests of his sister had not compelled him to maintain such a reserve ; while Blandina, with her artless simplicity, yet strength of character, and her finely-cultivated mind, which did not disdain to descend to the minutest details of the domestic arrangements of their tent—and also her kind and winning manners, which a beautiful face and figure contributed to adorn—so grew upon our esteem, that I ceased to be surprised at the impetuosity with which Gobin's feelings had carried him away, and rather began to wonder that I did not fall in love with her myself.

I was not in love, however. Whatever I might have done in different circumstances, it is hard to tell ; but, at the very first glimmer in my mind of such a possibility, I reviewed the dubious nature of my worldly prospects, and the folly of any tender sentimentality, and resolutely shut up my heart against any less ra-

tional feeling than friendship. Burschenwolt, however, seemed to be deterred by no such considerations; and although I knew his yielding, hopeful nature, and utter want of foresight, I was exceedingly surprised to note the readiness with which he yielded himself up to the sweet intoxication of the moment. The very first day of the Hoffengels' arrival, I thought something was the matter with him; the next day, he went into raptures about his Blandina's eyes and hair; the third, he said nothing about her, but looked very spoony and sentimental; and the fourth, he so utterly forgot his coyote, that I was myself obliged to see that the poor animal had sufficient food. And, ever since, he had abandoned work, and substituted deep contemplation, while he invariably passed his evenings beside his divinity. I often accompanied him, being always careful so to act as not to interfere with him; and many a pleasant evening we thus passed together.

One evening, at a little after dusk, we were sitting together at the door of their tent. Burschenwolt was a little back with Blandina, while I sat somewhat removed, with the brother. Above us the full round moon glistened between the branches of the spreading pines with so bright a light, that everything seemed to be thrown in relief as clearly as at noonday. The conversation happened to turn upon Gobin and his supposed fate.

“Poor fellow!” said Gaspar Hoffengel, “I knew

him in Tennessee. Circumstances there happened—no matter what they were—which obliged me to treat him with some severity; and ever since, he has looked upon me as an enemy. And what a singular coincidence was our meeting!”

“And do you believe he is now dead?”

“I can form no other probable conjecture. When we separated in our pursuit of the Indians, he and the fellow they call Pickle Jack chanced to be with me. Gobin, upon turning and seeing me with himself, was tempted to utter some harsh remark. I forgot myself so far as to make an equally heated answer. I forget what it was, but he immediately turned around and darted off, and that was the last I saw of him. This fact I have not mentioned, except to yourself. There are persons so unreasonable, that they would connect in some way his disappearance with our previous quarrel; and it is best not to act in such a way that any one could have unpleasant feelings toward me.”

“Of course, I would be the last to mention such a thing,” I said; but, upon casually turning my head, I was startled to see the face of Pickle Jack, grinning at us from behind the pine which grew before the door. He had evidently heard every word which we had said; and while he shuffled away, ere Hoffengel was aware of what had attracted my gaze, there was a triumphant leer in the fellow’s countenance which I did not more than half like. Still I endeavored to reassure

myself with the reflection that the rascal, in spite of his knowledge of such a fact, could do no injury; but all the while there was a certain vague foreboding of coming mischief floating upon the current of my thoughts, under the influence of which I became morose and less sociable, and ultimately took my departure.

My forebodings were not without foundation. Upon the next evening, I observed Pickle Jack, with a crowd of listeners around him, eagerly discussing some topic of interest. I approached, but the party separated, as though I was not a fit recipient of their confidence. But, in a few minutes after, I saw another crowd a little way off; and, before long, several little parties were intently engaged in conversation at different points — though, as they silently dispersed whenever I came near them, I was unable to learn the purport of their discussion. I could not doubt, however, that some plan was in contemplation affecting the reputation of Hoffengel; but (wisely as I thought) I said nothing about the matter, waiting in silence for a fuller development.

It came. On the third day, as I was walking with Hoffengel to our hole, which we had not long before commenced together, five or six of the miners, headed by Kentucky, came toward us, and one of them struck my friend smartly upon the shoulder.

“What’s that for?” said Hoffengel, starting back.

“ You are arrested !” answered Kentucky.

“ For murder ! — where’s Gobin ?” screamed Pickle Jack, who was in the party.

“ Ay ! where is he ?” retorted Kentucky. “ Boys, at him !”

Hoffengel endeavored to defend himself, but in an instant he was overpowered and tripped off his feet, while his arms were tightly pinioned. I endeavored to remonstrate, but without success.

“ We don’t want no lawyer-work here,” said Kentucky. “ None of your long bills for cheating the gallows will go down with us.” The rest uttered the same delightful sentiments ; and, in unavailing despair, I saw my friend lugged off, like a bundle of goods, to some temporary place of confinement.

I immediately hurried off to Burschenwolt, and told him the whole story, as minutely and yet as shortly as possible.

“ Good God !” he cried, starting up — “ and Blandina !” And, without another word, he hurried off to where the poor sister was, as yet ignorant of what had transpired. Not wishing to interrupt his interview, I remained behind, but after a while followed him, for the purpose of giving her what consolation I could, as well as to offer my assistance, as far as the settlement would allow it to be afforded.

When I peeped into the tent, the poor girl was seated upon a chest, with her head bowed in her hands, and

was weeping pitifully. Burschenwolt was sitting beside her, and in broken tones endeavoring to soothe her; though, by his perplexed expression, it was evident that he had never been placed in such a situation before, and knew but little the art of administering comfort.

I stood for a minute looking on unseen, sometimes ready to venture in, and then again concluding to defer the interview to a calmer and otherwise more propitious moment; but just as I had made up my mind to the latter course, and was turning around to go, the slight noise I made attracted the poor girl's attention to me, and she sprang up, took my hand in hers, drew me into the tent, and bade me sit down.

"You are a lawyer, they tell me?" she half inquired, with more calmness than I had expected.

I answered that I was.

"And you know how to save my poor brother?—You will not let them murder him, for you know that he is innocent!"

I assured her that my confidence in his innocence was not to be excelled, and that I would do all I could to help him—but here I stopped. It seemed cruel to mention any doubts of the issue of the affair to the poor, trembling creature before me, who—from some vague idea that a lawyer could always make the truth plain to the world, or at least had the means of influencing a body of men to the entertaining of any opin-

ion—seemed to cringe at my feet in supplication. Some men would have endeavored to cheer her with comforting tales of certain acquittal and reputation restored, even though the next hour might bring a revulsion of despair ten times hideous from comparison with previous assurances. But it always seemed to me to be the proper plan to tell the worst at once, in every case, so that the mind might be prepared for any issue ; and this I now undertook to do, in as tender a manner as I could.

I told her that no thinking man, who did not suffer his prejudices to run away with his reason, could for a moment doubt that her brother was perfectly innocent of the crime imputed to him ; but at the same time I explained that the majority of the miners were men without any clear perception of justice, and that, with such, first impressions could not easily be eradicated. I said that every point of law was in our favor, but that the whole settlement had resolved to run counter to the universally-received legal system, and that consequently many abuses of justice might creep in, with other prejudices. I said that the whole affair was doubtless a plot of Pickle Jack, by which to obtain revenge for the merited chastisement he had received a few evenings previously ; but that this would be a difficult thing to show, particularly as her brother had made himself somewhat unpopular by his distant manners, and Pickle Jack, on the contrary, was rather

liked on account of his social disposition. Finally, I told her that, as a lawyer, I would be allowed to mingle myself but little in the affair, but that, as a citizen of the mines, I would always claim my right to be heard, and would thus endeavor to counteract the popular feeling. And when I had finished, she seemed to grow calmer—as though, having heard the worst, she had already prepared herself to meet it—and, after a few moments' silence, thanked me for what I had said and would try to accomplish, and requested to be left alone.

“What you think of it?” asked Burschenwolt, as we departed.

“I think,” said I, “that they have already determined to hang the poor fellow—and that, not so much because they think that the evidence supports the charge, as because they believe that the laws are too much evaded by criminals, and now wish, by some execution or other, to show their own superior wisdom.”

Burschenwolt made no reply; and in silence we proceeded to make some preparations for the comfort of the poor girl. We so arranged that all her meals could be cooked for her by ourselves, in order that her grief might not be further disturbed by private cares—and also pitched our tents near hers, so as to afford proper protection whenever it might be necessary; and then, with heavy hearts, we awaited the day of trial.

XI.

THE day of trial came. It was fixed for Sunday, when, work being left off, it seemed as though the best way to keep the day holy was to employ it in murdering a fellow-being. I would not say that the miners meant to act otherwise than right, for I knew that they believed whatever Pickle Jack might have told them, and that, in accordance with the story he was circulating, they doubted not that Hoffengel should be executed. But they were wrong in suffering their prejudices to overrule their sense of right; for, under the determination of conducting the affair themselves, without the intervention of any "lawyer-tricks," all my suggestions were nullified, and I could hardly say a word in defence of the accused man without being insulted. All I could do was to visit the poor fellow in the place where they had roughly bound him, and give him my assurances that I would do all in my power to assist him, and that in the meanwhile his sister was well cared for and protected.

A hollow, where several large pines formed a circle, was fixed upon as the court. At one side, Kentucky was seated as judge, he having been elected to that post the night before. The prisoner, still bound, was

placed in the middle ; while in every direction around were the spectators, among whom was Pickle Jack, with a devilish glare of triumph in his eyes, and his rifle in his hand, with which he said he meant to shoot down the prisoner should he endeavor to escape. It was a useless threat, since poor Hoffengel was too much weakened by confinement and agony of mind to think of such a thing. And, a little farther removed, were a few Indian boys, who had lately begun to straggle back to the mine, and, finding that nothing was done to them, waxed as impudent as ever.

The court being considered opened, some discussion arose as to what should first be done, when it was suggested that a jury should be empanelled. This was considered a very bright thought, and then the number came under debate. I remarked that twelve was the common number ; whereupon, with the usual contrariety, the court stated that six would be enough. And, in forming the jury, an equally-wise policy was adopted : whoever first offered himself being accepted, with the exception of Burschenwolt and myself—who, upon coming forward, were rejected, on the ground that we were prejudiced in favor of the prisoner. Upon remarking that those already chosen were prejudiced against him, which was worse, I was told to shut up, for that no “lawyer-tricks” were wanted there ; and seeing that anything I could say would only operate the wrong way, by still further turning the popular

prejudice against the prisoner, I let the matter drop, and said nothing more.

Examination of witnesses was then about to be commenced, when I suggested that the prisoner should be informed of what he was accused.

“Murder, of course,” said Kentucky.

“Of whom? where? when? how?” said I. “All these things are important.”

These remarks were received with more favor than I had expected, for their sense seemed to impress itself upon the minds of all. There was a moment’s silence, until Kentucky exclaimed—

“I tell you what, fellow, had n’t we better write it down, and then we’ll have it all right?”

“Is n’t that what lawyers always do?” one inquired, with a sneer; “because, if it is, we don’t want none of it!”

“Why,” I answered, venturing on a lie, as I saw it would assist the prisoner against the combination formed about him, “it is sometimes so; but, in most cases, they merely say what has been done, and remember it.”

“’Tis n’t right!” said Kentucky, as I had expected. “’Toughter be writ down, for perhaps they can’t always remember it, and then they’d have to go all over it agen.—Texas!” he continued, calling out to a rough-looking individual from that state, who wore a Spanish poncho wrapped about his knotted limbs, “they say

you can write : now jest go and put down the charge on paper, so as we can all know what is meant."

For the first time, Hoffengel raised his head, and he gave me a quick, meaning glance of grateful feeling ; while Texas, first stopping to light his pipe, straggled off to his tent, to look after some paper. There was then a suspension of proceedings, while we awaited his return, during which the bottle and tobacco were circulated freely. At last Texas strolled back, holding in his hand a dirty scrap of paper, upon which was written the indictment, as follows :—

"While we were out after Polok's varmints, Gaspar Hoffengel murdered a fellow named Gobin, and says he didn't do it. So we have come together to try him, and find out whether it is true that he didn't do what he says he didn't do."

This specimen of criminal composition seemed to give universal satisfaction, and led to the suggestion that it be kept in some safe place for future use and reference. "Because then," said the speaker, "if so be as we have another murder case, we could just alter the names and use it over again, which would be a great convenience, and save time, you know" — which idea being favorably received, Texas was appointed to keep the paper safe. "What is this but a court clerk?" I whispered to Burschenwolt.

"No you don't!" said Texas, though, when the office was proposed to him. "I've hardly got room

for my own traps, and won't do it, unless I'm paid for it—that's flat!"

"Quite right!" replied Kentucky, snatching at the idea; "and do you think I'm goin' to sit here all day without having any pay?"

So chimed in the jury; and in the end it was decided that, for each day in which the court should sit, the judge, clerk, and jury, should each have an ounce for their trouble, to be paid for out of the funds of the prisoner.

But it is useless to mention, at full length, all these little disputes. Suffice it to say, that another person was appointed to write down the testimony; and that so many other little offices were created, that the grand system of justice soon lost its contemplated simplicity, as always happens when ignorant men, for the purpose of making improvements, attempt to meddle with what is beyond them. Hardly an hour had passed, and we already had a judge, jury, two clerks of the court, one county-clerk, a hall of records, standing forms, and a fee-bill in comparison with which the most protracted suit in a regular court would have been cheap—and which, by a remarkable system of justice, was invariably to be paid by the prisoner, whether guilty or innocent. To be sure, these officers and institutions were not called by such names, for that would have shocked the anti-legal propensities of the miners; but their several powers and purposes were the same, and their

fees ten times as exorbitant. — But to the examination of witnesses!

Pickle Jack was first called. He came forward with a disgusting air of assurance, which, in any more civilized community, would have at once almost condemned his testimony, mingled as it was with the triumphant leer of gratified revenge which he cast upon the prisoner. The swelling about his face had entirely disappeared, but no length of time could have taken away the bloodshot look about his eyes, and the general air of intemperate indulgence, caused by repeated nightly debauches.

“And now, Pickle Jack,” said Kentucky, forgetting to administer any oath — a proceeding which, even if a bible could have been found in the settlement, would not have altered the testimony one iota — “tell us all about this affair; and be quick, man!”

“Well,” replied the fellow, taking a pull at his canteen, and then putting a quid of tobacco in his cheek, “all I know about it is this. When we parted company in cruising after Polok’s Injins, Gobin and I and Hoffengel sailed in convoy. I was just ready to pop away at a red rascal, when I hear Gobin say something to Hoffengel, which kinder vexed him. Then Hoffengel hailed him with something back; and a minute after, when he thought I was n’t looking, I saw him up with his rifle and hit Gobin with a bullet in the starboard quarter: and just then, Kentucky gave

the signal for closing up in company, and we came back."

"And why didn't you tell this before?" asked Kentucky.

To this question, Pickle Jack intimated that he hardly knew, but that he believed it was because he thought, now that Gobin was dead, that it would be unnecessary to make a fuss; but that, finally, his sense of justice and of the duties he owed to society would not permit him to remain any longer silent.

"That will do, Pickle Jack," said Kentucky; and the witness was about to go back to his seat beside his rifle, when I interrupted him.

"I should like to cross-examine the witness," I said.

"Can't be done!" replied Kentucky; "no lawyer-tricks for us!"

"I ask it as a citizen of the mines," I responded. "It is what any of you would be permitted to do."

Kentucky looked doubtful. The appeal seemed reasonable, but he doubted in his mind whether I was not making it a pretence for some "lawyer-trick," which might not be found out till too late. As the best means of settling the matter, he was just about to put the proposition to vote, after a true democratic manner, when Hoffengel, looking up at him, stated that he would cross-examine the witness himself—a course about which there could be no question in regard to propriety.

“Did you not, on our return from the chase, state, with others, that you knew not what had become of Gobin? What, then, did you mean by such an inconsistency?”

Pickle Jack shuffled uneasily upon his feet, and for a moment was quite taken aback; but many rascals have a ready impudence, and he was one of them. His eye suddenly lighted up with animation as he conceived a plan whereby he could not only clear away the inconsistency, but also inflict a wound which would be severely felt, and he answered: “Why, to be sure, I oughter have told on it at first, but you know family honor is something. You know you have a little bird in your tent, that I thought of being spliced to; and, for her brother to be hung, would——hallo, d—n you, keep clear!”

Hoffengel had started up, and, had his hands not been bound, would have speedily done something more worthy of being hung for than anything he had yet been charged with. But the persons sitting near easily pulled him back; and, as he felt himself powerless, he sunk down in an agony of wo: while Pickle Jack, whose explanation had effectually relieved most of his hearers from the doubts which Hoffengel’s question had momentarily raised, retired with a malignant smile of diabolic satisfaction gleaming upon his ugly features.

Two or three other witnesses were then called upon to testify that, on the return, Hoffengel had appeared

very much excited — which proved nothing, since the events of the pursuit had acted upon every one in the same manner. Then the judge proposed that, being a little tired, we should adjourn till after noon ; which proposition, being put to vote, was agreed to. The prisoner was taken back to his place of confinement ; the jury and spectators went off to drink, and play monté ; the Indian boys gave a whoop and did likewise ; and in a few minutes the ground was deserted by all, excepting two or three, who remained eagerly discussing which would be a proper tree for the anticipated execution.

XII.

As soon as the court was dismissed, Burschenwolt and I both hurried off to the tent where Blandina Hof-fengel had remained in an agony of doubt and fear. We found her with her face buried in her hands, and for some moments so unconscious of our approach, that I began to think that her grief had mercifully rendered her insensible. But at last, when we ventured to address her by name, she looked up, and motioned us to enter.

She laid her hand on mine, and gazed up inquiringly into my face, seeming as though she had resolved to hang her hopes and fears upon the first word which might proceed from my lips. For some time I said nothing—being resolved not to act in such a way as cruelly to raise false hopes, and at the same time studying how to express my sense of the impending and contracting cloud so as not to give too great a shock to her mind; and while I was hesitating, Burschenwolt said something to her in German (what it was I could not understand, of course, but it seemed to be in the nature of encouragement). And then it suddenly occurred to me, how much more proper it would be for him, who was bound to her by the ties of national sym-

pathy, to break the impending truth; and I arose to take my departure, having uttered nothing, and feeling very much as though I was cowardly flying from my duty, and yet all the time knowing that I was taking the most proper and available course.

“Tell her all, and do not express hopes which you can not feel—it will be better so in the end,” I whispered to him as I left. He nodded, and I stepped forth into the open air, feeling a sense of relief as I did so, and half wondering that I had never before found the tent so hot and oppressive.

“Where to go now?” was the question. I thought I would seek out some of the jury, and endeavor, by a little private conversation, to influence them the right way. It was not exactly the thing which a true observance of legal custom would authorize, to be sure; but where the whole body of the miners had thrown the system over by the board, and thus given vent to a vast amount of prejudice and chicanery against the prisoner, it was hard indeed if I could not make use of any means in my power which would result in his favor. So I strolled off, in as leisurely a manner as I could assume, to where two of the jury were playing poker with an old pack of cards.

After looking on as listlessly as possible for a few minutes, I intimated that I would like to take a hand, for the purpose of learning the game—though, to tell the truth, I knew it well enough. So, after noticing

that one winked to the other, as if congratulating him upon having such a fine opportunity to fleece a greenhorn, I pulled out my bag of dust, and sat down with them.

I purposely lost as large a sum of money as I could afford, in order to put them into a good humor, and also made several such broad mistakes in the play as might well be calculated to excite their risibilities; and then commenced proceedings in regard to the trial.

“I ante two and stake two!—Well, by-the-way, what are you going to do with poor Hoffengel?”

“Hang him, of course,” said one of the men, with the utmost coolness. “There—see you two and go you three better!”

“You don’t believe him really guilty?” I said.

“To be sure!”

“I call!” I said, as I laid down my three dollars. “Why, there’s not a court in Christendom would think him guilty,” I added, rather off my guard.

“Courts be d——d!” said the fellow; “we don’t want none of them here.—What have you got?”

“To be sure,” I answered; “but then, you know, in this case there’s no dead body found, and so you can’t be sure there has been a murder: and if you are not perfectly sure—”

“Never mind about that now,” he interrupted—
“show your hand!”

“Two queens and two threes!” I said, laying down my cards in a sort of despair at finding the fellow so impenetrable to everything except the game in hand.

“Two jacks!” replied he, showing his cards.

“Three sevens!” said the other fellow, sweeping up the pile. And then the two declined playing any more—being either afraid luck would change, or else having some dim perception that I was tampering with them, and that it wasn’t right—which, by-the-way, would have been the only respectable idea they had cherished that day, at the least. And I also walked off, having purposely lost nearly a week’s earnings, and all for nothing.

A lucky thought struck me. They would probably not allow me to make any defence in favor of my poor friend, but it was not impossible that they might permit him to make his own defence. If, therefore, I saw him privately, and placed in his possession such a review of facts and inferences as the practice of my profession told me would be useful, there might be one step gained. So I was about hurrying off, when I heard the signal-horn blown, which was to summon the miners for the continuation of the trial.

I cursed my luck! That infernal game of poker had not only drained my pockets to no purpose, but had also taken up much valuable time, which might have been better employed. It could be of no use to go after Hoffengel now, for I saw them already bring-

ing him from his place of confinement, while the whole population of the settlement was hurriedly wending to the place of trial. With a bitter heart I mixed in with the crowd, and, taking my seat upon the grass, waited for the court to open.

“What,” thought I, “will poor Hoffengel think of me, but that I have abandoned him, since I have not been to see him in his prison yet? And if those two wretches, with whom I played that unlucky game of poker, have sounded my designs, will they not bear yet harder against the accused?—and will not I be brought into disrepute, and perhaps be turned out of the mine, with the loss of everything I have got?”—These were not pleasant thoughts, and as quickly as I could I cast them aside and looked around.

Most everybody was in the place he had had during the morning, and in general very much inclined to give proper attention to the proceedings. Some, however, were a little drunker than they had been before, and were consequently apt to become noisy; yet, as their more sober friends held them in restraint, it was not a matter of very great consequence.

“Hoffengel,” said Kentucky, rapping with his pipe for order—after a few witnesses in favor of the prisoner had been bullied—“you have been accused of killing Gobin. I believe you did it—but that’s neither here nor there, what I think. You’re to look to the jury for their opinion, you are. If you can make

those fellows believe you didn't do it, all right : we'll let you go, then. But if you can't, we'll hang you up, as sure as Kentucky's the greatest state in the Union ! So, get up, and let's hear what you can say for yourself."

Hoffengel was about rising in his defence, when I interposed. I requested leave to make a few remarks in favor of the prisoner. I promised not to take up much time, and assured the crowd that it was their duty to listen to whatever might lean to the side of mercy.

"Can't do it!" said Kentucky ; "we want no lawyer-work here !"

I stated that I merely wished to be heard as a member of the settlement, and that my only object was to respond to the call of humanity.

"My opinion is," replied one of the jury, "that whatever is to be said had better be said by the man himself ; for who should know better what he thinks best for him ?"

"But would you, if placed upon your trial for life, be able to speak as calmly and collectedly as one less interested ?" I demanded.

"Hum !" the fellow muttered, "the man's only got to tell the truth about it, and that any one could say—hang or no hang !"

"I tell you what I'll do," Kentucky said, upon being appealed to ; "I'll put it to vote. There ! nothing can be fairer than that, it can't—I'm sure."

The vote was, of course, against me ; and, with a heart bitter with the reflection that a murder was about to be perpetrated under the name of justice, I sat still to hear Höffengel argue his own case.

He did better than I had anticipated. Speaking in a voice which, though somewhat broken, was clearer than might have been expected under the circumstances, he continued for some minutes in a fair train of argument, in which he displayed a sort of intuitive knowledge of the principles of law. He began by referring to his general good character in the mines, previous to the arrest under such a charge. He then spoke of Pickle Jack's evidence as being unworthy of credit, since the fellow had himself acknowledged bitter feelings against him, and had been heard more than once to swear vengeance against him for a just punishment. He also spoke of the sailor's inconsistent stories in relation to the affair—an inconsistency which mere insulting language ought not to be considered as explaining. He referred to Gobin's insane traits of character, under the impulse of which he might easily have wandered off by himself in the chase, and never found his way back. And he stated that, no dead body being found or even looked for—as would have been a just course for the members of the self-constituted court—they ought not to be too ready to presume that any murder had been committed ; and that any such presumption, if made at all, should be by

the mouths of more than a single witness, and that one deeply prejudiced. And, finally, he prayed the jury, if there was a doubt in their minds, to lean to the side of mercy, if only for the sake of one who would be alone and unprotected if he were taken away from her.

“Don’t be afraid about the little bird!” sneered Pickle Jack, when the argument was finished; “I’ll marry her myself.”

A slight burst of indignation followed this heartless piece of insult, and for a moment I hoped the feeling thus raised would tell in favor of the prisoner; but the next minute, I saw by the dark, determined looks of the free and enlightened jury, that all hope was over: and, true enough, after putting their heads together for a moment or two, they turned to Kentucky and said—

“We believe that he done it.”

“Then may God forgive you!” uttered Hoffengel, and that was all he said.

“And when shall we hang him, fellows?” said Kentucky.

One suggested that the next day would be a proper time, but another remarked that it was “work-day;” and so, after a few minutes’ debate, Kentucky named that same afternoon at sunset: and it being put to vote, and settled upon, the court was adjourned, and the prisoner taken back to his place of confinement.

XIII.

I CAN NOT describe the sickening sensations which filled my soul as I followed the crowd away from the scene of trial. Some were brutally joking about the coming execution, but for the most part a subdued feeling reigned among the mass ; and I fancied that some, who had been the most eager for the conviction of the prisoner, would now have been glad to find any expedient which might save him.

This slight ebullition of feeling, however, if any such actually existed, was but transitory. The resident in California becomes too familiarized with death to regard it with half the horror which attends its approach in more civilized places. Consequently, any of those who may have been saddened at first, soon brightened up with the reflection that it was merely the poor fellow's bad luck, for which they were not accountable. And ere many minutes, the bottle and cards were in as full request as before ; and, upon looking back to the place of trial, I observed Kentucky sawing off a horizontal limb from one of the pines, so as to leave the jutting arm, about fifteen feet from the ground. I well knew what it was for.

I had no time, however, in which to indulge my

sensibilities. Something must be done soon or never, for the sun was rapidly descending to the level of the hills. I therefore turned back to Kentucky, and implored him to allow the prisoner more time, in order that, if anything turned up which would be of benefit to him, it might not come too late.

No, it couldn't be done. Next day was work-day, and it would cost too much to keep the condemned man another week. Provisions were getting scarce; and, besides, there was no chance for Gobin to come back: Pickle Jack had said he saw Gobin shot, and Pickle Jack ought to know! Such was the substance of Kentucky's reasoning; and when he had finished, he turned away, as though not wishing to argue the question any more, and commenced fixing a slip-knot in a rope, while Pickle Jack stood by, with a broad grin of triumphant transport upon his coarse, ugly features.

I saw it was of no use, and reluctantly turned away. My last hope was to go about among the miners, and endeavor to excite such a feeling of sympathy in them as would serve to counteract their former injustice. But here also my labor was fruitless. The miners were too busily engaged in their several dissipations to mind what was said to them. As a general thing, also, they considered the matter settled; and, whether right or wrong, wished to hear nothing more about it. Some laughed; others said that they were sorry, but

that the poor fellow must swing; a few appeared inclined to help him if they could, but didn't know how, and, as I plainly saw, couldn't be made to learn. And the upshot of the whole affair was, that I was obliged to give it up—with the feeble hope that, at the last minute, when they saw the poor victim standing on the brink of the grave, the awful scene might affect them more powerfully than now, and lead them to reverse their unjust decision.

I would at least go to the condemned man, and endeavor to offer him my feeble assistance and consolations, and thither I accordingly went, rejoicing that Burschenwolt's presence had saved me from the painful task of breaking the melancholy tidings to the poor sister; for Burschenwolt, at the conclusion of the trial, had immediately gone off to the tent of Blandina Hoffengel, whither I dared not go, and I had not seen him since.

I found Gaspar Hoffengel in a small tent which had been vacated for the purpose by its former occupant. He was strongly tied at his feet and hands, and was propped up against a sack of flour behind. This was what I observed from the doorway, where I had a long dispute with the two men stationed to guard him, ere I was allowed to enter.

“A sad business for you, my friend Gaspar!” I said, after I had obtained admittance.

“It is,” replied he, “but I knew how it would end,

and I have prepared myself. I die innocent of this crime ; and I trust that such an affliction may atone for what other sins I may have committed.—But my poor sister ! what will she do when I am gone, and how will she bear this blow ?”

“ Make yourself easy about that,” I said. “ I will protect her from insult, and will endeavor to provide for her ; and, further, will restore her to her friends in the East, though I go myself with her.”

He grasped my hand. It was all he did, and nothing was said on the subject ; but I felt I had been thanked sufficiently, if thanks were necessary for promising what none but a brute could have refused.

“ What time have I to live ?” he asked, at length.

I went to the door and glanced at the declining sun ; and returning, told him he had about an hour and a half.

“ Go to my tent, then, and bring me back a bible which my poor sister will give you.”

I pulled out mine, which I had stopped at my tent for, and laid it before him.

“ And now, my kind friend,” he said, “ leave me alone for the rest of my shortening time.”

I called in the men who guarded him, and had the cords which confined his hands tied round his wrists instead, so that he could hold the book before him ; and then, shaking him by the hand, left him with tears in my eyes, such as I had never yet shed.

All was becoming quiet in the settlement as the time wore on. The cards and drinking were put aside, and men walked uneasily about; for a good sense in some, and an instinctive feeling in others, told them that this was not a time for gaming and debauchery. I hoped that the drawing near of such a solemn occasion, with its accompanying better feelings, might work some relenting in the hearts of the miners; and so it might have been, if Pickle Jack had not run around, from group to group, reiterating his charges, and thus destroying whatever of good feeling might occasionally arise. And while I marked this scene, and wondered how revenge could be carried so far in the human heart, the setting sun slowly dipped behind the mountains, the last gleam flickered among the pines as it went down, and then the horn of Kentucky blew the signal for the execution.

I made yet another effort for the unfortunate prisoner, when the whole population of the settlement, with the attendant groups of straggling Indians, had assembled. I reviewed, as Hoffengel had done before, the points of the defence; and, though some manifested impatience, I persisted in going on against all opposition. I dilated upon the absence of any corpse, to show that any murder had been committed; I spoke of the inconsistencies of the principal witness, and his noted enmity against the prisoner; I remarked upon the improbability of any one attempting a murder in

the sight of others, and for a very slight provocation : and lastly, knowing that Kentucky's voice was all-powerful with the miners, I attempted to win his opinion by a little nicely-coated flattery.

“I know, judge,” I said—giving him the title which he claimed, and titles are always agreeable to such people—“I know well that the decision in this case, which has been made with your approbation, is, in many respects, wise and just ; but still there may be many little things, which, in the press of the business, you may have overlooked. Now don't you think it would be a good plan to give this man yet one more week, in order to let something turn up to save him, in case he may be innocent? It would do no harm, and might do good.”

I saw that he hesitated, and finally he said he would put it to vote, which he did. There were many persons who declared themselves in favor of delay, but there were more who were adverse, and so the proposal was not adopted. Kentucky, rather delighted to think that he was relieved of all responsibility, gave orders that the execution should go on ; and then, for the first time, I lost all hope.

At this moment, a courier from below, mounted on a large chestnut horse, was seen entering the mines, and galloping toward us. Behind him he bore a small bag of letters ; and, as it had been a long while since we had had any news of importance from below, the

prisoner, for the time, was forgotten, and all eagerly crowded about the courier, who, at the first demand, opened his bag and commenced his distribution; and it was only when the bag was empty, that he began to inquire the reason of the scene before him.

“Going to hang him for murder,” said Texas.

“Poor devil!” replied the courier, stationing himself for a good view of the scene.

All this time, Pickle Jack, who had volunteered to act as executioner, was tying the knot in a tighter strain; and finding his efforts somewhat impeded by a long end of one of the strands which hung in his way, he demanded a knife with which to cut it off.

“Take mine,” said the courier, who happened to stand near, handing out a large pearl-handled bowie of curious workmanship.

“Stop!” shouted Hoffengel, for the first time speaking. “Men, will you persist in murdering me? I’ll swear that’s Gobin’s knife!”

And so it was! Every one recognised it immediately. Here was a ray of hope; and it only remained for the courier to mention how the instrument came into his possession.

“Why, that’s the most curious part of it,” said the man. “I was passing through one of Cacoux’ villages, when they told me that a white man was sick there. So, as in duty bound, I stepped aside to see him. I didn’t ax his name, for I had n’t time to stop

long, and perhaps I didn't think of axing, since I don't know as it would have done me any particular good. But this I know—he was sick, and couldn't get well, and he knew it too, so as there was no use in moving him. He said as how he had left some other miners, because he couldn't bear to stay, on account of something or other. And then I came along."

"But the knife—the knife?" a dozen of us cried.

"Why, as I was leaving, he told me to take it. 'I can't live, stranger,' he said, 'and it's better a white man, as knows how to use it, should have it, than an Injin.' There was a dog along with him, too, if that will be of any importance.

"I demand that this execution be stopped, and Gaspar Hoffengel stand acquitted!" I said, starting up.

"Why," replied Kentucky, "not that exactly, for all this may n't be true; but we'll adjourn it till next Sunday, and then we can find out if it is really Gobin that was seen."

The proposal was carried by acclamation—Pickle Jack's being the only dissenting voice; and then, a party of six or eight volunteering to go after Gobin and thence report as to his identity, I ran to have our mules saddled, and Burschenwolt joyfully sped to carry the glad tidings to his Blandina; while Gaspar was borne back to confinement, with the most distinguished and respectful consideration.

XIV.

WELL, to go on with my story, I believe I never experienced so much real joy in my life as when I saw things taking this favorable turn. To use the expression of one of the miners, I looked "as though I had taken out a forty-ounce lump." My heart actually danced within me, more especially as I saw, by the discomfited appearance of the populace, that they were already becoming disgusted with the operation of their self-made code, and that now was the time when the true system of law-expounding should begin to fall into practice.

While Memnon was saddling the mules, I flew to offer my congratulations to Gaspar; for, although the affair was not yet decided, no one could very well doubt the ultimate result. I found his two guards now made not the slightest objection to my admittance. Indeed, they had themselves gone into the tent, unbound the poor, much-abused fellow's hands, and were in the act of proposing a sociable game of monté to him, as I entered. He thanked them kindly, but declined playing at present; whereupon one of them handed forth a flask of brandy for his use, and they left us to ourselves.

“Pretty good fellows those, after all,” said Hof-fengel, as they stepped outside. “I do not believe they meant to act wrong in their former treatment of me.”

“To be sure not,” I answered. “Their fault was, in letting their prejudices overcome their reason ; and thus, in accordance therewith, forcing themselves to look upon a man as guilty before he was really proved to be so.—But how do you find yourself now?”

“Much better, of course,” he answered. “And my sister—”

Ere he could finish, however, the door was darkened for a moment, and Blandina, supported by Burschenwolt, threw herself in his arms ; and promising soon to return, with such evidence as would undoubtedly insure his entire liberty, we left her in a state of joyful hysterics, and departed after our mules.

A dozen men were already mounted to go after poor Gobin, among whom Kentucky and Texas were the most prominent. Pickle Jack, on the contrary, had slunk out of sight, and no one seemed to know where he had gone. I inwardly wished that he had cleared out from the mine for ever, as he was undoubtedly the most hardened character I had ever met with.

“Now, then, a’n’t you going with us?” said Kentucky to the courier, who sat upon the ground, complacently smoking a short pipe. “How on airth are we to find Gobin, unless you come with us? You

can just as well come back after our letters as stay here all the time."

The man looked round rather discontentedly, seemed to appreciate the necessity of his attendance, but muttered something about having been riding all day, and finally mounted and rode off with us. And so we jogged along—Kentucky and the courier in front; Texas following with some of the others, to whom he was telling how that he knew it would turn out so, and that Hoffengel was a deuced good fellow; and Burschenwolt and myself bringing up the rear, having fallen somewhat behind for the purpose of talking over the affair without interruption.

"Now I go read letter of mine," said Burschenwolt, suddenly remembering that the courier had given him one, which in the excitement he had put into his pocket unopened.

He accordingly let the reins fall loose upon his mule's neck, and unfolded the sheet; and the news he received seemed to give him so much satisfaction, and he appeared so desirous of imparting it, that I attempted to help him along a little.

"All right down below—in the settlements—Burschenwolt?"

He clapped his hand down upon his saddle-bow with such animation, that he almost broke his meerschaam; whereupon, emptying out the ashes, he put the bowl very carefully into his pocket, and remarked:—

“I should no wonder as I was in Gottingen before long.”

“Ah?”

“My twenty lots I once tell you of—a city grow up there, after all.”

“Indeed?”

“My agent go for sell out for me ; he sell for fifteen thousands dollars ! That money all mine ! I go very soon to Gottingen again.”

“And Blandina Hoffengel—how about her?” I inquired.

His color came and went several times, and he plunged into a fit of musing for some minutes.

“If you are well assured of your fortune—but not without—and if the girl likes you, do you think you could do better?” I said.

“Ah! she may no like me—then I go alone. If she like me, then I take her with me,” he answered, after a moment’s reflection ; and nothing more was said on the subject. We rode on silently for some minutes, he undoubtedly forming many plans for the future, and I feeling rather sorry that I had not myself bought a few lots in that same city.

By this time, it had grown quite dark. The innumerable stars had peeped forth from above, and now shed a faint, uncertain light upon our path, as we stumbled along the trail, lifting our mules over rotten logs and loose stones, and ever and anon dodging the

thick boughs of oak and pine which stretched over our heads like so many spectral giants holding forth their arms with which to clasp us in imprisonment. At intervals, the howling of wolves, wild-cats, and coyotes, could be heard in the distance, as they held their revels over some thicket-hidden carcass; while, as we passed through any longer and closer stretch of brush-land, our progress startled innumerable crickets and katydids into shrill and piping vitality. The warmth of the past day had departed, and an excessive chilliness supervened, so that we were obliged to fold our coats tightly about us in order to catch the least bit of comfort for our skins.

“Hallo! where be you taking us to?” Texas suddenly sung out. “Seems to me about camping-time. Been now two hours on route.”

“Two miles off only,” said the courier; “Cacoux’ village near at hand.”

And after riding about a quarter of an hour longer, we found ourselves in the midst of a confused screaming and yelling, mingled with the ceaseless barking of dogs. By the light of a fire some little distance off, we could discern several brush-huts, arranged in a circular form, among which the savages were standing, though in such a faint light, it was difficult to say whether they were men or women. Around the fire, however, was another party, which we could easily see was composed of men clad only in blue shirts, and

having red handkerchiefs tied about their long, straggling locks. They seemed to treat our approach with the coolest indifference, never once getting up to receive us, but continuing whatever employment they were about with the greatest vigor.

“All right!” said the courier; “this is the village.”

We dismounted, and while some took the horses and tethered them, and also built a fire, and made other arrangements for a night's bivouac, the rest of us followed our guide to the place where he had seen Gobin lying. The poor fellow was still there. What was exactly the matter with him, we could hardly tell. It seemed to me that the strange wanderings provoked by his partial insanity, and the hardships thereby endured, had suddenly prostrated his strong frame, and thus brought out some seeds of disease, which, under prudent care, might for a long while have lain concealed, and perhaps ultimately have disappeared. Any how, it was evident that he could not long survive, and this he seemed himself conscious of—for, as he saw us crowding into the hut, he raised his head from the ground, and fixing upon us his eyes, to which the sudden surprise gave a startled and glassy appearance, said—

“Boys, you've come to see me die, have you not?”

“I hope not, Gobin,” replied Kentucky.

To this the sick man deigned no reply, but, looking once more round, demanded whether I was present.

I stepped from behind the group and confronted him, and, in answer to his questions regarding the object of our coming, told him the whole story.

“And you were going to hang an innocent man!” he said, with as much indignation as his feeble voice would allow. “Shame on you!”

And then, by way of clearing up his extraordinary course of conduct, he told the whole story: how that the presence of the Hoffengels at the mine had revived all his old associations, so as to make life hateful to him; how that he had resolved to leave the locality, and seek some distant refuge from his troubled thoughts; how that, in the excitement of the pursuit after the Indians, he had wandered far away, forgetting his companions, and at length found himself alone in an unknown part of the country; and finally, how that some strange aberrations of mind had overtaken him, in which he must have wandered about many days, his instincts alone protecting him, until, when his recollections returned, he found himself sick, exhausted, and sinking, in the company of the friendly tribe.

“And that is all, boys,” he said. “Here, take this,” he added, pulling a small bag of gold-dust from his hunting-pouch; “give this to Gaspar Hoffengel, as a last legacy from me, and as some reparation for the trials my conduct has caused him.—And do you stay with me this night,” he said to me; “to-morrow I feel that I shall be gone.”

The rest went out, and I remained alone with him. For an hour or two he conversed with me ; and though I often requested him not to waste his strength in imparting his revelations, yet he still persisted. It was a solemn thing to hear, in that rude cabin of the wilderness, the dying man detailing the errors of his past life, and, as his mind occasionally wandered, imagining himself in some European court, mingling in its gay festivities. Gradually, however, his voice sank away. I bent over him, and found that he slept ; and then, folding myself in my blanket, prepared to watch beside him. Soon, though, I felt sleep stealing over me. I endeavored to resist its approach, but in vain, and at last I also sank away in dreamland.

The bright morning sun gleaming into the door of the hut and through the interstices of the brush-walls, and the loud shouts of the Indians, mingled with the cooler tones of the miners, awakened me. I arose and looked round for Gobin. To my horror, he was not there ! My cries for help brought the whole village around me, and a vigorous search was instituted ; and at last we found him, at a little distance from the village—dead. He had wandered off in some transient fit of delirium, and had passed away as he had latterly lived, a true hunter of the prairies. He was sitting up against the trunk of a giant pine, with his head turned as though he had seen some cause of alarm, and his hand was upon the belt where his knife had formerly

rested ; and at his feet lay his faithful Gobinette, with his nose upon his outstretched paws, giving utterance to a low whine.

We buried him upon the spot, as the most appropriate which could have been selected. When we laid the body in the grave, the dog jumped in, and would not be removed ; and while we were endeavoring to drag the faithful brute away, one of the Indians, in conformity with their customs, ran his knife through its heart, that both might be buried together. And, filling up the grave, we wended our way back to the settlement with saddened hearts.

X V.

IT is scarcely necessary to state that, upon our return to the mine, Gaspar Hoffengel was acquitted with all the honors. Indeed, considerable enthusiasm was manifested upon his account : every one pressed around to shake him by the hand ; if he had drunk with half the people who wanted him to, he would have been a dead man in half an hour ; and, upon the whole, the very men who before were most anxious to hang him, were the most joyous about his escape.

“Hope you bear no malice, old fellow,” said Kentucky, coming forward among others, and thrusting forth his bony hand. “Sorry I acted so, but I thought I was right, and did it for the best, you know.”

On the contrary, Hoffengel assured him that there was no cause of quarrel between them ; and further, that if he ever was hung, it would give him particular pleasure to have it done at the instigation of such a good fellow as Kentucky ; whereupon Kentucky laughed, swore that he was a trump, and shook hands again.

“And about our fees—” one of the jury commenced.

“D—n the fees !” roared Kentucky. “Do you think we’re agoing to put a man in fear of his life, and

then, when we find we oughter have let him alone, turn to and ruin him to pay ourselves? Better, by a long shot, make up a purse to pay him for his lost time."

The suggestion was eagerly taken up, a ragged hat passed round, this and that person put in a lump or two, and ere Hoffengel could find time to object, some two or three hundred dollars were poured into his lap. And then the good-natured crowd, by a simultaneous impulse, hoisted him on their shoulders, and bore him in triumph to the store, where the bottles were brought out, the necks cracked off, and a flow of wine and rush of viands commenced, in honor of the occasion.

While this was going on, I observed Kentucky eying me from time to time, in a shamefaced way, as though he wished to give me due credit for my past exertions and prognostications, but was withheld by the usual embarrassment attending an open acknowledgment of one's own fault; but at last the cheerful glow of brandy diffused through his frame loosened his sense of justice, and he stretched out his knotted hand to me.

"Come up and take something!" he shouted;—"you're a good fellow, and we'll make you judge of the settlement, we will."

I thanked him kindly for his good opinion of me, and, as the offer was kindly meant, and to refuse would have seemed disobliging, I managed to gulp down a

dose of brandy that almost burnt my stomach to charcoal. And then, thinking it a good opportunity to provoke a discussion upon the true objects and intents of civilized law, and the faithful manner in which it performed the requisitions made upon it, I gradually drew him on, until I found myself employed in a regular discussion, which, as I adapted it to the understanding of those present, was listened to with considerable attention.

I first endeavored to correct the prevalent idea that the laws were instituted for unjust purposes, and that they could be made the vehicle for uniform oppression. This I did by showing that it was in the power of the people, at any time, to alter them. And I also attempted to disabuse their minds of the notion that all lawyers were scamps and reprobates. I fancy I spoke with considerable effect—for Kentucky, immediately as I finished that part of the subject, expressed his approbation by inviting me to take a drink!

I then set about vindicating the practice of the law from any charges about its want of simplicity, by showing that it was impossible that any important and useful thing could be always constructed upon narrow principles; that in the law, everything could not be settled by one particular method, but that different branches required different treatment, lest otherwise the whole fabric would be choked up and rendered useless. This I illustrated in a variety of ways—

which so well suited Kentucky, that he again called out—

“Take a drink!”

Then I spoke of the different officers of the courts, and showed that it was impossible to do without them; and that, whenever there was work to be done, there must also be some one to do it. I explained, upon the principle of division of labor, how much better and cheaper it was in a large community to have certain persons constantly employed in particular departments, whereby the work was not only done quicker, but also better. This I illustrated by reference to our mining pursuits, wherein it was considered better for some men to dig, while the others worked the rocker. And I demonstrated that, in the late trial, so far from having done away the many officers of a court, they had actually doubled the usual number, and quadrupled the expense which the whole transaction would have involved in a regular court.

“Take a drink!” said Kentucky.

I then argued the question about costs at law, and demanded to know whether a man who devoted himself for years to one branch of the laws, should not be paid as well as one whose energies were expended in mere hand work. And I explained also that the courts were not shut against a poor man—since, to such, counsel was always afforded freely and willingly.

“Take a drink!” repeated Kentucky.

I next defended the law from the charge of being an abstruse and incomprehensible thing—though, at first sight, its terms might seem to warrant the assertion. But I stated that everything must have a name, by which to denote it ; and that the terms in the legal vocabulary were really no more abstruse than the commonest words in the English language, since it was merely their more unfrequent use that made them appear strange and unfathomable. And, finally, I wound up with a general review of the late trial—showing where the adaptation of legal principles would have saved time and money, and also preserved at the first the life which had been so nearly lost ; and I stated that, though sometimes the guilty might thereby escape, yet it was better so than that innocent men should perish, which infallibly would often be the case if loose and formless courts were indulged in.

“By the devil, you *shall* take a drink !” shouted Kentucky, jumping up in a rapture, and seizing the bottle ; “and you shall be our judge and lawyer both, and shall make a court in the true way.”

“A moment,” I said, stopping him. “If you would do so much for me, and thus listen to my suggestions, let me ask you why you would thus allow to escape that wretch, who, for the indulgence of his private malice, has endeavored to swear away the life of a fellow-being? Are there no statutes against perjury? and are not those statutes just?”—and I pointed to

Pickle Jack, who had reappeared in the settlement, and now, neglected by all, sat in a dark corner, peering upon the floor with bloodshot and heavy eyes.

The miserable sailor groaned and arose, and stretched out his hand toward me; while, with thick utterance, he said—

“ Ah—ah! no—no more! Drink, and make up! But don't step on that—that—spider!”

“ What does the man mean?” exclaimed Kentucky. “ Who ever knew him to care for the life of a spider?”

“ But—but—he's gone!” continued Pickle Jack. “ See! that snake has swallowed him! Why don't you kill the snake? D—n you, I say, why don't you kill the snake?” he yelled out frantically; and then, with a loud curse, he fell writhing upon the ground.

The dreadful truth flashed upon us. It was not now for us to avenge, since Heaven had spared us the task, and sent the terrible delirium upon him. Even now I seem to hear the wretched man's oaths and yells sounding in my ear. We could not bear it; and, as shrill cry after cry arose from him, the most of us rushed from the tent, and sought refuge from that dreadful scene at a distance.

Dear C——, it is now four days since that wretched being left this bourne for another, whence he can no more return. We buried him with all decent respect, for, at least, he was human; but, when the last sod was trodden down, a sense of relief came over us all,

that he was gone. The popularity which his lavish dissipation had won him, could not withstand the fiendish act which he afterward perpetrated, and Pickle Jack died without a friend.

The courier leaves to-morrow, and I must close up my journal that I may send it by him. With him the Hoffengels and Burschenwolt travel to the city. Gaspar, by means of Gobin's legacy and the fund which the miners contributed at his acquittal, finds himself in possession of a suitable amount with which to commence some little business in town; and Burschenwolt goes to look after his newly-acquired property. He has left his coyote with me as a keepsake, and tells me that when I feed the animal, I should think of himself and his Blandina in old beloved Gottingen.

I shall miss my friends sorely, but the cares of business will probably soon occupy me sufficiently to alleviate their loss: for, by universal consent, I have been appointed judge of the mine, with full power to try every case and weigh both sides according to legal principles. The calendar is filling up rapidly. Such is the desire of all to watch the working of true legal practice, that every one is looking up some old grievances, and goes into law with as much alacrity as he would enter into a game of monté.

You see, then, that I am getting into some success at last. And now, farewell! It is my best wish that you may be run down with lucrative business; but

should clients fail you, leave the hot city, and, instead of moping away the best part of your life, put your profession upon the hazard of the die, and in these green old mountains seek out some "Volcano," where common consent intends to abrogate both law and lawyers.

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"Compared with this, the miserable wood-cuts with which young folks have hitherto been obliged to be content in the volumes published, whether for their amusement or instruction—they mark a new era in publications addressed chiefly to the young. Taste, that delicate quality of the trained intellect (and which, with its twin-brother discrimination, makes a *feeler* to the mind as important to some of its operations as is the trunk of the elephant to the purveyance of the creature's proper food), true taste is ministered to in these drawings, at the season of life when it is most susceptible of gentle and unconscious training. Boston, which we believe has hitherto been the most famous city for its juvenile books, will doubtless, with its readiness to appreciate a good thing, instantly acknowledge that the enterprise of Mr. Redfield has given New York so much the lead that it will require great efforts to rival her in this department of book-making."

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